

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Sammie A. Abbott,
Abraham Bloom,
Reginald Booker,
Tina Hobson,
Richard Pollock,
Rev. David Eaton,
Washington Area Women Strike
for Peace,
Washington Peace Center,
Arthur Waskow,

Plaintiffs,

v.

Civil Action No. 76-1326

Jerry V. Wilson,
Thomas J. Herlihy,
Jack L. Acree,
Christopher J. Scrapper,
Edward J. Jagen,
George R. Suter,
Harold Bynum,
John W. Mahaney,
Ann Kolego Markovich,
District of Columbia,
Charles D. Brennan,
George C. Moore,
Gerould W. Pangburn,
Gerald T. Grimaldi,
Courtland J. Jones,

Defendants.

FILED

DEC 23 1981

JAMES F. DAVEY, CLERK

JUDGMENT ON THE VERDICT
(FOR PLAINTIFFS)

JUDGMENT ON THE VERDICT
(For Plaintiffs)

This cause having been tried by the Court and a Jury, before the Honorable Louis F. Oberdorfer, Judge presiding, and the issues having been duly tried and the Jury having duly rendered its verdict; now, therefore, pursuant to the verdict,

IT IS ORDERED, ADJUDGED AND DECREED that each of the following plaintiffs: Reginald Booker, Tina Hobson, and Rev. David Eaton have and recover of and from each of the following named defendants the amount stated opposite that defendant's name:

<u>Name</u>	<u>Amount</u>
Charles D. Brennan	Nine Thousand Three Hundred Seventy-Five and 00/100 (\$ 9,375.00)
George C. Moore	Seven Thousand Five Hundred and 00/100 (\$ 7,500.00)
Courtland J. Jones	Five Thousand Six Hundred Twenty-Five and 00/100 (\$ 5,625.00)
Gerald T. Grimaldi	Four Thousand Six Hundred Eighty-Seven and 50/100 (\$ 4,687.50)
Gerould W. Pangburn	Five Thousand Six Hundred Twenty-Five and 00/100 (\$ 5,625.00)
Jerry V. Wilson	Five Thousand Six Hundred Twenty-Five and 00/100 (\$ 5,625.00)
Thomas J. Herlihy	Four Thousand Six Hundred Eighty-Seven and 50/100 (\$ 4,687.50)
District of Columbia	Thirty-Seven Thousand Nine Hundred Thirty-Seven and 50/100 (\$ 37,937.50)

together with costs.

JAMES F. DAVEY, CLERK

By: *Lucas Smith*
Deputy Clerk

Date: Dec 23, 1951

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Sammie A. Abbott,
Abraham Bloom,
Reginald Booker,
Tina Hobson,
Richard Pollock,
Rev. David Eaton,
Washington Area Women Strike
for Peace,
Washington Peace Center,
Arthur Waskow,

Plaintiffs,

v.

Jerry V. Wilson,
Thomas J. Herlihy,
Jack L. Acree,
Christopher J. Scrapper,
Edward J. Jagen,
George R. Suter,
Harold Bynum,
John W. Mahaney,
Ann Kolego Markovich,
District of Columbia,
Charles D. Brennan,
George C. Moore,
Gerould W. Pangburn,
Gerald T. Grimaldi,
Courtland J. Jones,

Defendants.

Civil Action No. 76-1326

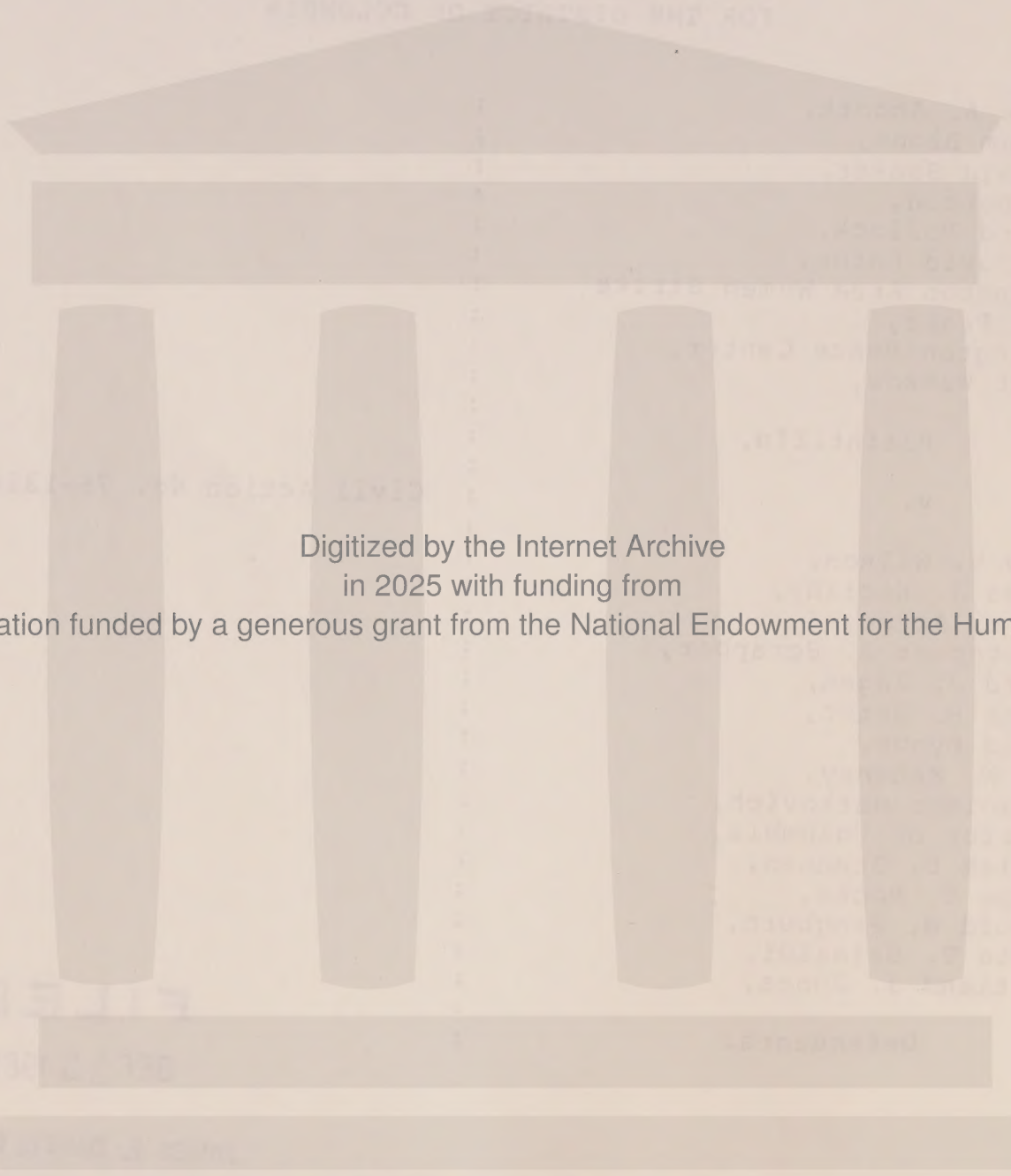
FILED

DEC 23 1981

JAMES E. DAVEY, CLERK

JUDGMENT ON THE VERDICT
(FOR PLAINTIFFS)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA



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JUDGMENT ON THE VERDICT
(For Plaintiffs)

This cause having been tried by the Court and a Jury, before the Honorable Louis F. Oberdorfer, Judge presiding, and the issues having been duly tried and the Jury having duly rendered its verdict; now, therefore, pursuant to the verdict,

IT IS ORDERED, ADJUDGED AND DECREED that each of the following plaintiffs: Sammie A. Abbott, Abraham Bloom, Richard Pollock, Washington Peace Center, and Arthur Waskow have and recover of and from each of the following named defendants the amount stated opposite that defendant's name:

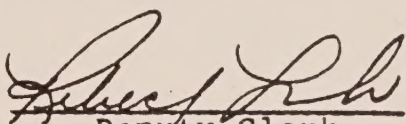
<u>Name</u>	<u>Amount</u>
Jerry V. Wilson	Five Thousand Six Hundred Twenty-Five and 00/100 (\$ 5,625.00)
Thomas J. Herlihy	Four Thousand Six Hundred Eighty-Seven and 50/100 (\$ 4,687.50)
Jack L. Acree	Two Thousand Five Hundred Sixty-Two and 50/100 (\$ 2,562.50)
Christopher J. Scrapper	Three Thousand One Hundred Twenty-Five and 00/100 (\$ 3,125.00)
Edward J. Jagen	Two Thousand Five Hundred Sixty-Two and 50/100 (\$ 2,562.50)
George R. Suter	Two Thousand Five Hundred Sixty-Two and 50/100 (\$ 2,562.50)
John W. Mahaney	One Thousand Eight Hundred Seventy-Five and 00/100 (\$ 1,875.00)
Charles D. Brennan	Nine Thousand Three Hundred Seventy-Five and 00/100 (\$ 9,375.00)
George C. Moore	Seven Thousand Five Hundred and 00/100 (\$ 7,500.00)

Gerould W. Pangburn	Five Thousand Six Hundred Twenty-Five and 00/100	(\$ 5,625.00)
Gerald T. Grimaldi	Four Thousand Six Hundred Eighty-Seven and 00/100	(\$ 4,687.00)
Courtland J. Jones	Five Thousand Six Hundred Twenty-Five and 00/100	(\$ 5,625.00)
District of Columbia	Thirty-seven Thousand Nine Hundred Thirty-Seven and 50/100	(\$ 37,937.50)

together with costs.

JAMES F. DAVEY, CLERK

By:


Deputy Clerk

Date: Dec 23, 1941

Sammie A. Abbott,
Abraham Bloom,
Reginald Booker,
Tina Hobson,
Richard Pollock,
Rev. David Eaton,
Washington Area Women Strike
for Peace,
Washington Peace Center,
Arthur Waskow,

v.

Civil Action No. 76-1326

Defendants.

DEC 23 1981

JUDGMENT ON THE VERDICT
(FOR PLAINTIFFS)

JUDGMENT ON THE VERDICT
(For Plaintiffs)

This cause having been tried by the Court and a Jury, before the Honorable Louis F. Oberdorfer, Judge presiding, and the issues having been duly tried and the Jury having duly rendered its verdict; now, therefore, pursuant to the verdict,

IT IS ORDERED, ADJUDGED AND DECREED that each of the following plaintiffs: Sammie A. Abbott, Abraham Bloom, Richard Pollock, Washington Peace Center, and Arthur Waskow have and recover of and from each of the following named defendants the amount stated opposite that defendant's name:

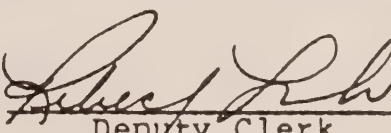
<u>Name</u>	<u>Amount</u>
Jerry V. Wilson	Five Thousand Six Hundred Twenty-Five and 00/100 (\$ 5,625.00)
Thomas J. Herlihy	Four Thousand Six Hundred Eighty-Seven and 50/100 (\$ 4,687.50)
Jack L. Acree	Two Thousand Five Hundred Sixty-Two and 50/100 (\$ 2,562.50)
Christopher J. Scrapper	Three Thousand One Hundred Twenty-Five and 00/100 (\$ 3,125.00)
Edward J. Jagen	Two Thousand Five Hundred Sixty-Two and 50/100 (\$ 2,562.50)
George R. Suter	Two Thousand Five Hundred Sixty-Two and 50/100 (\$ 2,562.50)
John W. Mahaney	One Thousand Eight Hundred Seventy-Five and 00/100 (\$ 1,875.00)
Charles D. Brennan	Nine Thousand Three Hundred Seventy-Five and 00/100 (\$ 9,375.00)
George C. Moore	Seven Thousand Five Hundred and 00/100 (\$ 7,500.00)

Gerould W. Pangburn	Five Thousand Six Hundred Twenty-Five and 00/100	(\$ 5,625.00)
Gerald T. Grimaldi	Four Thousand Six Hundred Eighty-Seven and 00/100	(\$ 4,687.00)
Courtland J. Jones	Five Thousand Six Hundred Twenty-Five and 00/100	(\$ 5,625.00)
District of Columbia	Thirty-seven Thousand Nine Hundred Thirty-Seven and 50/100	(\$ 37,937.50)

together with costs.

JAMES F. DAVEY, CLERK

By:


Deputy Clerk

Date:

Dec 23, 1941

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Julius Hobson, et al.,
-----)
Plaintiff)
vs.)
Jerry v. Wilson, et al.,
-----)
Defendant)

CIVIL NO. 76-1326

FILED

DEC 23 1981

JUDGMENT ON THE VERDICT
(For Defendant)

JAMES F. DAVEY, CLERK

This cause having been tried by the Court and a Jury, before
the Honorable Louis F. Oberdorfer, Judge presiding, and the
issues having been duly tried and the Jury having duly rendered its
verdict; now therefore, pursuant to the verdict,

IT IS ORDERED, ADJUDGED AND DECREED that the plaintiff(s)

Tina Hobson, Reginald Booker, and David Eaton

take nothing on the complaint against the defendant(s)

Jack Acree, Harold Bynum, John Mahaney, Ann Kolego

Markovich, George Suter, Edward Jagen, and Christopher
Scraper.

~~and that the said defendant(s) have and recover costs from the said~~
~~plaintiff(s).~~

JAMES F. DAVEY, Clerk

Dated: 23 December 1981

By: 
Deputy Clerk

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Julius Hobson, et al.

Plaintiff

vs.

Jerry V. Wilson, et al.

Defendant

CIVIL NO. 76-1326

FILED

DEC 23 1981

JUDGMENT ON THE VERDICT
(For Defendant)

JAMES F. DAVEY, CLERK

This cause having been tried by the Court and a Jury, before the Honorable Louis F. Oberdorfer, Judge presiding, and the issues having been duly tried and the Jury having duly rendered its verdict; now therefore, pursuant to the verdict,

IT IS ORDERED, ADJUDGED AND DECREED that the plaintiff(s)
Sammie Abbott, Abraham Bloom, Richard Pollock, Arthur
Waskow, and Washington Peace Center

take nothing on the complaint against the defendant(s)
Harold Bynum and Anne Kolego Markovich.

~~and that the said defendant(s) have and recover costs from the said~~
plaintiff(s).

JAMES F. DAVEY, Clerk

Dated: 23 December 1981

By: *James F. Davey*
Deputy Clerk

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Julius Hobson, et al.

Plaintiff

vs.

Jerry V. Wilson, et al.

Defendant

CIVIL NO. 76-1326

FILED

DEC 23 1981

JUDGMENT ON THE VERDICT
(For Defendant)

JAMES F. DAVEY, CLERK

This cause having been tried by the Court and a Jury, before
the Honorable Louis F. Oberdorfer, Judge presiding, and the
issues having been duly tried and the Jury having duly rendered its
verdict; now therefore, pursuant to the verdict,

IT IS ORDERED, ADJUDGED AND DECREED that the plaintiff(s)
Sammie Abbott, Abraham Bloom, Richard Pollock, Arthur
Waskow, and Washington Peace Center

take nothing on the complaint against the defendant(s)
Harold Bynum and Anne Kolego Markovich.

~~and that the defendant(s) have and recover costs from the said~~
plaintiff(s).

JAMES F. DAVEY, Clerk

Dated: 23 December 1981

By: *Lucy L. L.*

Deputy Clerk

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Julius Hobson, et al.,

-----)
Plaintiff)

vs.)

Jerry v. Wilson, et al.,

-----)
Defendant)

CIVIL NO. 76-1326

FILED

DEC 23 1981

JUDGMENT ON THE VERDICT
(For Defendant)

JAMES F. DAVEY, CLERK

This cause having been tried by the Court and a Jury, before
the Honorable Louis F. Oberdorfer, Judge presiding, and the
issues having been duly tried and the Jury having duly rendered its
verdict; now therefore, pursuant to the verdict,

IT IS ORDERED, ADJUDGED AND DECREED that the plaintiff(s)

Washington Area Women's Strike for Peace

take nothing on the complaint against the defendant(s)

Jerry V. Wilson, Thomas J. Herlihy, Jack L. Acree, Christopher J.

Scrapper, Edward J. Jagen, George R. Suter, Harold Bynum, John J.

Mahaney, Ann Kolego Markovich, Charles D. Brennan, George C.

Moore, Gerould W. Pangburn, Gerald T. Grimaldi, Courtland J.

Jones, and the District of Columbia.

~~and that the said defendant(s) have and recover costs from the said~~
~~plaintiff(s).~~

JAMES F. DAVEY, Clerk

Dated: 23 December 1981

By: 
Deputy Clerk

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Julius Hobson, et al.,

-----)
Plaintiff)

vs.)

Jerry v. Wilson, et al.,

-----)
Defendant)

CIVIL NO. 76-1326

FILED

DEC 23 1981

JUDGMENT ON THE VERDICT
(For Defendant)

JAMES F. DAVEY, CLERK

This cause having been tried by the Court and a Jury, before
the Honorable Louis F. Oberdorfer, Judge presiding, and the
issues having been duly tried and the Jury having duly rendered its
verdict; now therefore, pursuant to the verdict,

IT IS ORDERED, ADJUDGED AND DECREED that the plaintiff(s)

Washington Area Women's Strike for Peace

take nothing on the complaint against the defendant(s)

Jerry V. Wilson, Thomas J. Herlihy, Jack L. Acree, Christopher J.
Scrapper, Edward J. Jagen, George R. Suter, Harold Bynum, John J.
Mahaney, Ann Kolego Markovich, Charles D. Brennan, George C.
Moore, Gerould W. Pangburn, Gerald T. Grimaldi, Courtland J.
Jones, and the District of Columbia.
~~and that the said defendant(s) have and recover costs from the said~~
~~plaintiff(s).~~

JAMES F. DAVEY, Clerk

Dated: 23 December 1981

By: 
Deputy Clerk

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Julius Hobson, et al.,

Plaintiff

vs.

Jerry v. Wilson, et al.,

Defendant

CIVIL NO. 76-1326

FILED

DEC 23 1981

JUDGMENT ON THE VERDICT
(For Defendant)

JAMES F. DAVEY, CLERK

This cause having been tried by the Court and a Jury, before
the Honorable Louis F. Oberdorfer, Judge presiding, and the
issues having been duly tried and the Jury having duly rendered its
verdict; now therefore, pursuant to the verdict,

IT IS ORDERED, ADJUDGED AND DECREED that the plaintiff(s)

Tina Hobson, Reginald Booker, and David Eaton

take nothing on the complaint against the defendant(s)

Jack Acree, Harold Bynum, John Mahaney, Ann Kolego

Markovich, George Suter, Edward Jagen, and Christopher

Scrapper.

~~and that the said defendant(s) have and recover costs from the said~~
~~plaintiff(s).~~

JAMES F. DAVEY, Clerk

Dated: 23 December 1981

By: *Rebecca P. W.*

Deputy Clerk

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA.

Sammie A. Abbott,
Abraham Bloom,
Reginald Booker,
Tina Hobson,
Richard Pollock,
Rev. David Eaton,
Washington Area Women Strike
for Peace,
Washington Peace Center,
Arthur Waskow,

Plaintiffs,

v.

Jerry V. Wilson,
Thomas J. Herlihy,
Jack L. Acree,
Christopher J. Scrapper,
Edward J. Jagen,
George R. Suter,
Harold Bynum,
John W. Mahaney,
Ann Kolego Markovich,
District of Columbia,
Charles D. Brennan,
George C. Moore,
Gerould W. Pangburn,
Gerald T. Grimaldi,
Courtland J. Jones,

Defendants.

Civil Action No. 76-1326

FILED

DEC 23 1981

JAMES F. DAVEY, CLERK

JUDGMENT ON THE VERDICT
(FOR PLAINTIFFS)

JUDGMENT ON THE VERDICT
(For Plaintiffs)

This cause having been tried by the Court and a Jury, before the Honorable Louis F. Oberdorfer, Judge presiding, and the issues having been duly tried and the Jury having duly rendered its verdict; now, therefore, pursuant to the verdict,

IT IS ORDERED, ADJUDGED AND DECREED that each of the following plaintiffs: Reginald Booker, Tina Hobson, and Rev. David Eaton have and recover of and from each of the following named defendants the amount stated opposite that defendant's name:

<u>Name</u>	<u>Amount</u>
Charles D. Brennan	Nine Thousand Three Hundred Seventy-Five and 00/100 (\$ 9,375.00)
George C. Moore	Seven Thousand Five Hundred and 00/100 (\$ 7,500.00)
Courtland J. Jones	Five Thousand Six Hundred Twenty-Five and 00/100 (\$ 5,625.00)
Gerald T. Grimaldi	Four Thousand Six Hundred Eighty-Seven and 50/100 (\$ 4,687.50)
Gerould W. Pangburn	Five Thousand Six Hundred Twenty-Five and 00/100 (\$ 5,625.00)
Jerry V. Wilson	Five Thousand Six Hundred Twenty-Five and 00/100 (\$ 5,625.00)
Thomas J. Herlihy	Four Thousand Six Hundred Eighty-Seven and 50/100 (\$ 4,687.50)
District of Columbia	Thirty-Seven Thousand Nine Hundred Thirty-Seven and 50/100 (\$ 37,937.50)

together with costs.

JAMES F. DAVEY, CLERK

By: *Lucy L. B.*
Deputy Clerk

Date: Dec 23, 1981

SOMERSTEIN & PIKE

ATTORNEYS AT LAW

233 BROADWAY
THE WOOLWORTH BUILDING
NEW YORK, NEW YORK 10279

(212) 227-4530

September 19, 1983

Mr. George A. Fisher, Clerk
United States Court of Appeals
United States Courthouse, Room 5423
Constitution Avenue and John Marshall Place, N.W.
Washington, D.C. 20001

Re: Julius Hobson, et al., v. Jerry
Wilson, et al., No. 82-2159 and
consolidated cases Nos. 82-2160,
82-2221, 82-2226, and 82-2227.

Dear Mr. Fisher:

Enclosed please find four copies of the Reply Brief of
Cross-Appellants (Plaintiffs-Appellees). Additional copies
will be filed as required upon submission of the joint de-
ferred appendix.

Kindly accept our briefs for filing.

Very truly yours,

MBP:rg
Enc: (4)

MARY BORESZ PIKE
Counsel for Plaintiffs-Appellees,
Cross-Appellants

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 82-2159

September Term, 19₈₂

Civil Action No. 76-01326

Julius Hobson, et al.

v.

Jerry Wilson
Thomas J. Herlihy
Jack Acree
Christopher Scrapper
Edward Jagen
John Mahaney &
George Suter
Appellants
John B. Layton, et al.

And Consolidated Cases

United States Court of Appeals
For the District of Columbia Circuit

FILED AUG 31 1983

GEORGE A. FISHER
CLERK

O R D E R

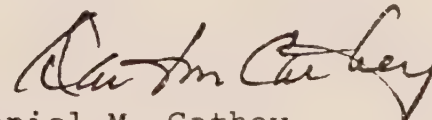
The Clerk is directed to file Appellant 'Courtland J. Jones' motion for extension of time in which to file brief, and on consideration thereof, it is

ORDERED that the Clerk is directed to file the brief lodged by Appellant Courtland J. Jones. The date fixed for filing the final reply briefs of the parties in these cases is enlarged three (3) days.

For The Court:

GEORGE A. FISHER, CLERK

By:


Daniel M. Cathey
First Deputy Clerk

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 82-2159

September Term, 19₈₂

Civil Action No. 76-01326

Julius Hobson, et al.

v.

Jerry Wilson
Thomas J. Herlihy
Jack Acree
Christopher Scrapper
Edward Jagen
John Mahaney &
George Suter
Appellants
John B. Layton, et al.

United States Court of Appeals
For the District of Columbia Circuit

FILED AUG 31 1983

GEORGE A. FISHER
CLERK

And Consolidated Cases

O R D E R

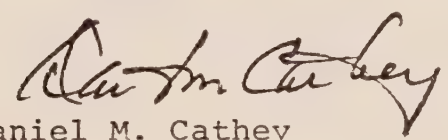
The Clerk is directed to file Appellant Courtland J. Jones' motion for extension of time in which to file brief, and on consideration thereof, it is

ORDERED that the Clerk is directed to file the brief lodged by Appellant Courtland J. Jones. The date fixed for filing the final reply briefs of the parties in these cases is enlarged three (3) days.

For The Court:

GEORGE A. FISHER, CLERK

By:


Daniel M. Cathey
First Deputy Clerk

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 82-2159

September Term, 19 82

Julius Hobson, et al.

Civil Action No. 76-01326

v.

Jerry Wilson,
Thomas J. Herlihy,
Jack Acree,
Christopher Scrapper,
Edward Jagen,
John Mahaney &
George Suter,
Appellants

United States Court of Appeals
for the District of Columbia Circuit

FILED 'AUG 29 1983

John B. Layton, et al.

GEORGE A. FISHER
CLERK

AND CONSOLIDATED CASE NOS. 82-2160,
82-2221, 82-2226 and 82-2227

O R D E R

The Clerk is directed to file the Protection Motion of the District of Columbia for Extension of Time to File Brief, and on consideration thereof, it is

ORDERED that the aforesaid motion is granted and the time within which to file their reply brief and brief in response to the plaintiffs' cross-appeal is extended to and including August 29, 1983. The remaining reply brief(s) shall be filed on or before September 13, 1983.

This order does not affect the inclusion of these cases in the pool of cases to be drawn for this Court's November-December 1983 sitting period.

For The Court

George A. Fisher
George A. Fisher
Clerk

UNITED STATES COURT OF APPEALS
For The District Of Columbia Circuit

JULIUS HOBSON, et al.	:	
	:	
v.	:	No. 82-2159
	:	
JERRY WILSON, et al.,	:	
	:	
Appellants.	:	
	:	
AND CONSOLIDATED CASE NOS. 82-	:	
2160, 82-2221, 82-2226 and	:	
82-2227	:	

PROTECTIVE MOTION OF THE DISTRICT OF
COLUMBIA DEFENDANTS FOR EXTENSION
OF TIME TO FILE BRIEF

The District of Columbia defendants, Jerry V. Wilson, et al., respectfully move the Court to extend the time during which they may file their reply brief and brief in response to the plaintiffs' cross-appeal to and including August 29, 1983.

Defendants style this a protective motion, because they construe prior orders of this Court to permit them to file their brief on or before August 29. However, those orders also can be construed to require filing by August 23. In the event that the Court construes its orders to require filing by that date, defendants seek an extension of time to August 29.

The grounds for this motion are:

1. Counsel for the FBI defendants (Marc Johnston, Esquire, and A. Raymond Randolph, Esquire), and for the plaintiffs (Mary Pike, Esquire) have authorized undersigned counsel to represent that they do not object to the granting of this motion.


2. The orders (entered on January 21, April 22, and May 20, 1983) establishing briefing schedules gave defendants 30 days from the date of service of plaintiffs' main brief to file their reply briefs and responses to plaintiffs' cross-appeal. That is the period established by the Federal Rules of Appellate Procedure.

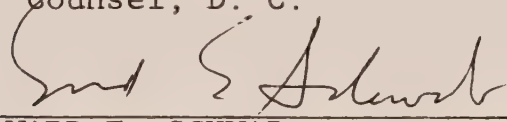
Under the briefing schedule established by the May 20, 1983 order, plaintiffs' main brief was due on July 20. However, plaintiffs sought and obtained an extension of time to July 25 for service by mail of their main brief. The order (entered on August 12, 1983) that extended their time did not by its terms adjust the rest of the briefing schedule. Thus, the extension that defendants seek merely maintains time that the Court had previously provided, by order, that they should have.

The requested extension is needed due to the unusually heavy workload at this time in the Appellate Division of the Office of the Corporation Counsel. From August 15, 1983, through the end of the month, the seven attorney Division has 15 briefs, one petition for rehearing and/or rehearing en banc that are due. They also must prosecute or respond to two expedited appeals and 3 motions for stay.



CHARLES L. REISCHEL
Deputy Corporation Counsel, D. C.
Appellate Division

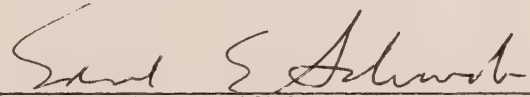

RICHARD B. NETTLER
Assistant Corporation
Counsel, D. C.


EDWARD E. SCHWAB
Assistant Corporation
Counsel, D. C.

Attorneys for District of
Columbia Appellants
Room 308, District Building
14th & Penn. Ave., N. W.
Washington, D. C. 20004
Telephone: 727-6252

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was mailed, postage prepaid, this 18th day of August 1983, to Anne Pilsbury, Esq., P.O. Box 362, New York, New York 10009; Marc Johnston, Esq., Appellate Staff, Civil Division, U.S. Department of Justice, 10th & Pennsylvania Avenue, N.W., Washington, D.C. 20530; Herb Semmel, Esq., Antioch School of Law for the Urban Law Institute, 1624 Crescent Place, N. W., Washington, D. C. 20009; Randolph Scott-McLaughlin, Esq., Center for Constitutional Rights, 853 Broadway, New York, New York 10003; Morton Stavis, Esq., Center for Constitutional Rights, 853 Broadway, New York, New York 10003; Mary Boresz Pike, Esq., 233 Broadway, Suite 670, New York, New York 10279; and A. Raymond Randolph, Jr., Esq., 1800 Mass. Ave., N.W., Washington, D.C. 20036.


EDWARD E. SCHWAB
Assistant Corporation
Counsel, D. C.

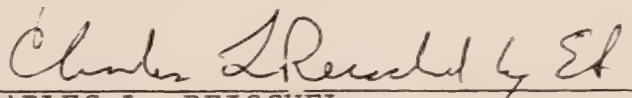
UNITED STATES COURT OF APPEALS
For The District Of Columbia Circuit

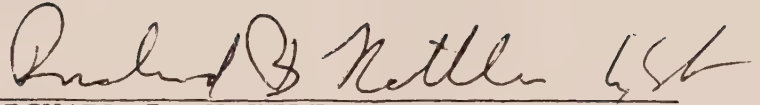
JULIUS HOBSON, et al., :
 :
 v. : No. 82-2159
 :
 JERRY WILSON, et al., :
 :
 Appellants. :
 :
 :
 AND CONSOLIDATED CASE NOS. 82- :
 2160, 82-2221, 82-2226 and :
 82-2227 :

MOTION TO WAIVE REQUIREMENTS OF
LOCAL RULE 8(h) AND PERMIT FILING
OF LODGED MOTION FOR EXTENSION OF
TIME WITHIN WHICH TO FILE BRIEF

The District of Columbia defendants move the Court to waive the requirements of Local Rule 8(h) and permit the filing of their motion for extension of time within which to file brief lodged herewith. The grounds for this motion are:

Defendants' counsel believed until quite recently that they could prepare defendants' reply brief and response to the cross-appeal in time for filing on August 23, 1983. However, in the last several days they have had to deal with two unanticipated emergency appeals and three emergency stay motions in other cases. For these reasons, they will not be able to prepare defendants' brief for filing until August 29, 1983.


CHARLES L. REISCHEL
Deputy Corporation Counsel
Appellate Division



RICHARD B. NETTLER
Assistant Corporation
Counsel, D. C.



EDWARD E. SCHWAB
Assistant Corporation
Counsel, D. C.

Attorneys for District of
Columbia Appellants
Room 308, District Building
14th & Penn. Ave., N. W.
Washington, D. C. 20004
Telephone: 727-6252

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was mailed, postage prepaid, this 18th day of August 1983, to Anne Pilsbury, Esq., P.O. Box 362, New York, New York 10009; Marc Johnston, Esq., Appellate Staff, Civil Division, U.S. Department of Justice, 10th & Pennsylvania Avenue, N.W., Washington, D.C. 20530; Herb Semmel, Esq., Antioch School of Law for the Urban Law Institute, 1624 Crescent Place, N. W., Washington, D. C. 20009; Randolph Scott-McLaughlin, Esq., Center for Constitutional Rights, 853 Broadway, New York, New York 10003; Morton Stavis, Esq., Center for Constitutional Rights, 853 Broadway, New York, New York 10003; Mary Boresz Pike, Esq., 233 Broadway, Suite 670, New York, New York 10279; and A. Raymond Randolph, Jr., Esq., 1800 Mass. Ave., N.W., Washington, D.C. 20036.



EDWARD E. SCHWAB
Assistant Corporation
Counsel, D. C.

UNITED STATES COURT OF APPEALS
For the District of Columbia Circuit

No. 82-2159

JULIUS HOBSON, et al.,

v.

JERRY V. WILSON, et al.,

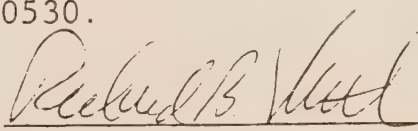
Appellants.

AND CONSOLIDATED CASE NOS. 82-2160,
82-226 and 82-2227

Appeal From the United States District Court
For the District of Columbia

CERTIFICATE OF SERVICE

I do hereby certify that two copies of the foregoing reply brief was mailed, postage prepaid, this 29th day of August 1983, to Anne Pillsbury, Esquire, 17th Danforth Street, Norway, Maine 04268; Morton Stavis, Esquire, Center for Constitutional Rights, 853 Broadway, New York, NY 10003; A. Raymond Randolph, Esquire, Christopher L. Varner, Esquire, 4801 Massachusetts Ave., N.W., Suite 400, Washington, D.C. 20016; Mary Boresz Pike, Esquire, Somerstein & Pike, 233 Broadway, Suite 670, New York, NY 10279; Herb Semmel, Esquire, Urban Law Institute, Antioch School of Law, 1624 Crescent Place, N.W., Washington, D.C. 20009, Marc Johnston, Esquire, David White, Esquire, Barbara L. Herwig, Esquire, Department of Justice, Civil Division, Appellate Staff, 10th & Constitution Avenue, N.W., Washington, D.C. 20530.


RICHARD B. NETTLER

Assistant Corporation Counsel, D.C.

SOMERSTEIN & PIKE

ATTORNEYS AT LAW

233 BROADWAY
THE WOOLWORTH BUILDING
NEW YORK, NEW YORK 10279

(212) 227-4530

August 26, 1983

Christopher Varner, Esq.
4801 Massachusetts Avenue, N.W.
Suite 400
Washington, D.C. 20016

Re: Hobson v. Wilson

Dear Mr. Varner:

As discussed earlier this week, plaintiffs have no objection to your motion for an extension of time within which to file your brief on behalf of defendant Jones from Monday, August 29, 1983, to and including Thursday, September 1, 1983. Our lack of opposition is conditioned on the consent of all opposing counsel to plaintiffs' time to reply being extended by a similar period of time, in addition, of course, to the three days that attach to service by mail.

We ask that you and other counsel make certain your respective briefs reach us by Friday, September 2, 1983. Otherwise, we are unlikely to receive them until Tuesday, September 6, 1983, since Monday, the 5th, is a holiday. Having consented to your request for an extension of time, we would appreciate opposing counsel serving their briefs in a manner that will insure our receipt of them on September 2, 1983, and no later.

Thank you very much.

Very truly yours,

Mary Boresz Pike

MBP:ar

cc: Marc Johnson, Esq., and David H. White, Esq.
Richard B. Nettler, Esq., and Edward E. Schwab, Esq.

Ray Randolph
202-686-0382
202-686-0380

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 82-2159

September Term, 19 82

Julius Hobson, et al.

v.

Jerry Wilson,
Thomas J. Herlihy,
Jack Acree,
Christopher Scrapper,
Edward Jagen,
John Mahaney &
George Suter,
Appellants

United States Court of Appeals
for the District of Columbia Circuit

FILED AUG 11 1983

GEORGE A. FISHER
CLERK

John B. Layton, et al.

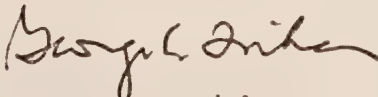
AND CONSOLIDATED CASE NOS. 82-2160,
82-2221, 82-2226 and 82-2227

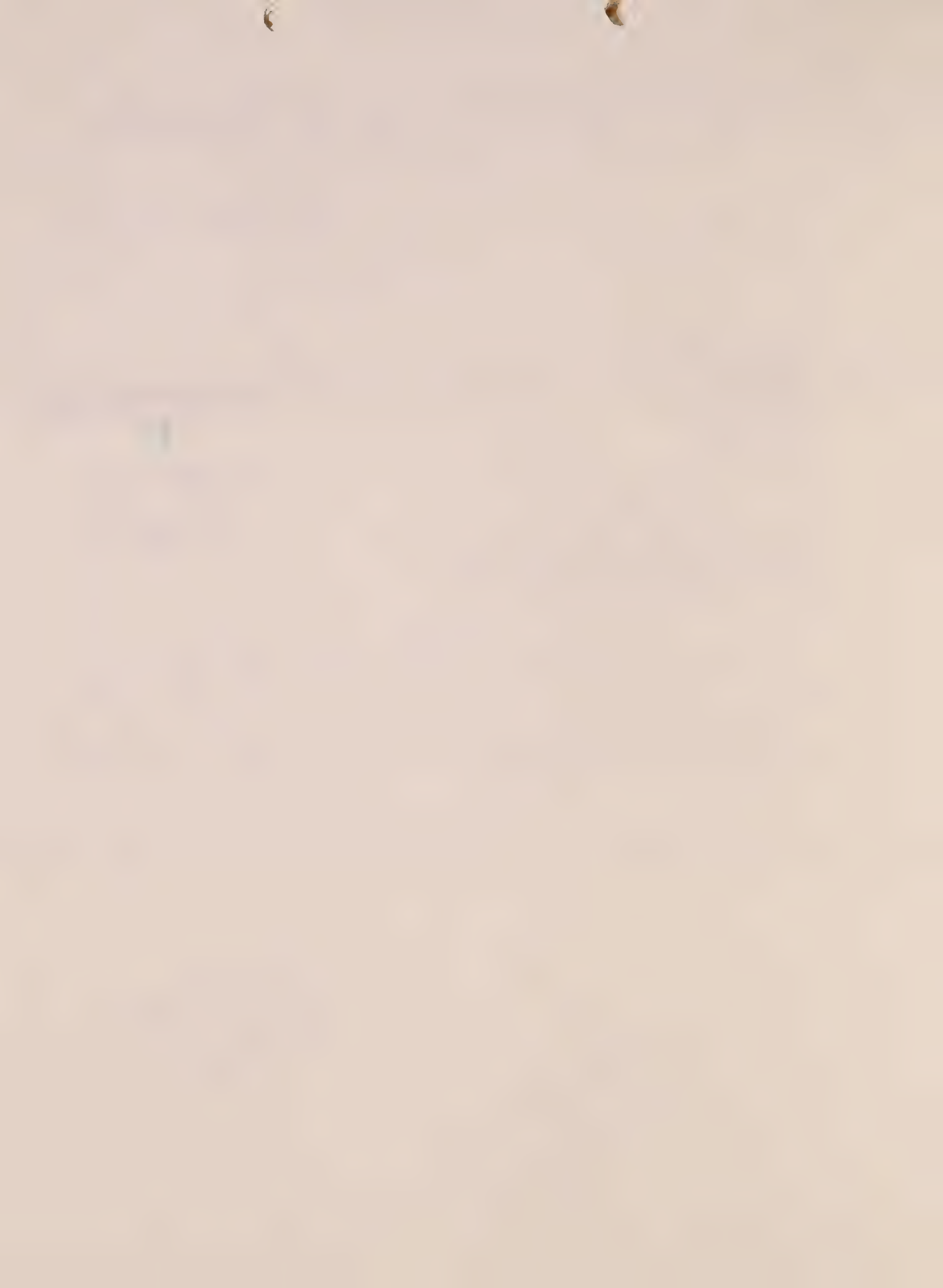
O R D E R

On consideration of appellees' motion to extend time to file brief,
it is

ORDERED that the aforesaid motion is granted and the Clerk is directed
to file appellees' lodged brief.

For The Court


George A. Fisher
Clerk



SOMERSTEIN & PIKE
ATTORNEYS AT LAW

233 BROADWAY
THE WOOLWORTH BUILDING
NEW YORK, NEW YORK 10279
(212) 227-4530

July 28, 1983

Office of the Clerk
United States Court of Appeals
United States Courthouse
Constitution Avenue and John Marshall Place, N.W.
Washington, D.C. 20001

Re: Julius Hobson, et al. v. Jerry
Wilson, et al., No. 82-2159 and
consolidated cases Nos. 82-2160,
82-2221, 82-2226, and 82-2227

Dear Madam or Sir:

Please be advised that pursuant to my conversation of earlier today with Mr. Daniel Cathey of your office, Plaintiffs-Appellees-Cross-Appellants in the above-referenced have designated Mr. David F. Pike to make in their brief the changes set forth in my letter of July 28, 1983, to Mr. George A. Fisher, a copy of which is enclosed.

Your cooperation in providing Mr. Pike the four copies of our brief for this purpose will be appreciated.

Thank you very much.

Very truly yours,

MBP:rg
Enc.: (1)
cc: David F. Pike

MARY BORESZ PIKE
Counsel for Plaintiffs-Appellees-
Cross-Appellants

SOMERSTEIN & PIKE
ATTORNEYS AT LAW

233 BROADWAY
THE WOOLWORTH BUILDING
NEW YORK, NEW YORK 10279
—
(212) 227-4530

July 28, 1983

Mr. George A. Fisher, Clerk
United States Court of Appeals
United States Courthouse, Room 5423
Constitution Avenue and John Marshall Place, N.W.
Washington, D.C. 20001

Re: Julius Hobson, et al., v. Jerry
Wilson, et al., No. 82-2159 and
consolidated cases Nos. 82-2160,
82-2221, 82-2226 and 82-2227

Dear Mr. Fisher:

We wish to advise the Court of an omission in the Brief of Appellees and Cross-Appellants. The first sentence of the Counter-Statement of the Case (page 2) presently reads in pertinent part: "This is a Bivens action for damages under 42 U.S.C. §1985" It should read "This is a Bivens action for damages under the Constitution and under 42 U.S.C. §1985" We wish to insert the words "under the Constitution and"; the remainder of the sentence remains unchanged.

Opposing counsel have no objection to this change, and it will appear in those copies to be submitted subsequently pursuant to Rule 30 of the Federal Rules of Appellate Procedure. The four briefs already on file will be corrected by hand. Mr. Cathey today advised me that we need merely designate someone to make the changes and provide them with a letter so authorizing the individual. We will at the same time number the five pages of the Summary of Argument 35b, 35c, 35d, 35e, and 35f, respectively.

I apologize for both omissions and any attending confusion.

Very truly yours,

MBP:rg

MARY BORESZ PIKE

cc: Richard B. Nettler, Esq., Counsel for Plaintiffs-Appellees-
and Edward E. Schwab, Esq. Cross-Appellants
David H. White, Esq., and
March Johnston, Esq.
A. Raymond Randolph, Esq.,
and Christopher Varner, Esq.
Mr. Daniel Cathey

SOMERSTEIN & PIKE

ATTORNEYS AT LAW

233 BROADWAY
THE WOOLWORTH BUILDING
NEW YORK, NEW YORK 10279

(212) 227-4530

July 28, 1983

Daniel Schember, Esq.
Gaffney, Anspach, Schember, Klimaski & Marks
1712 N Street, N.W.
Washington, D.C. 20036

Re: Hobson v. Wilson

Dear Dan:

Please find enclosed a copy of our opening brief. Given your long years of involvement with the case, it seemed only fitting that you receive one of the first copies. If you have any thoughts upon reading it, I'd be pleased to have the benefit of them.

My regards to J.E. I will count on you, if I may, to let her know that you have a copy of the brief.

Very truly yours,

MBP:rg
Enc.

MARY BORESZ PIKE

SOMERSTEIN & PIKE

ATTORNEYS AT LAW

233 BROADWAY
THE WOOLWORTH BUILDING
NEW YORK, NEW YORK 10279

—
(212) 227-4530

July 28, 1983

John W. Karr, Esq.
Karr & Lyons
625 Washington Building
Fifteenth Street and New York Avenue, N.W.
Washington, D.C. 20005

Dear John:

Anne Pilsbury and Mary Pike are pleased and relieved to announce that our opening brief in Hobson was filed this past Monday. I've enclosed a copy for you and Will. Would you read it and give us your thoughts? You have a knowledge of the circuit that will give us some much-needed insight relative to oral argument--which is supposed to be in November or December.

Thanks for the copy of Rose's letter. Neaheer's decision is hard to wait for.

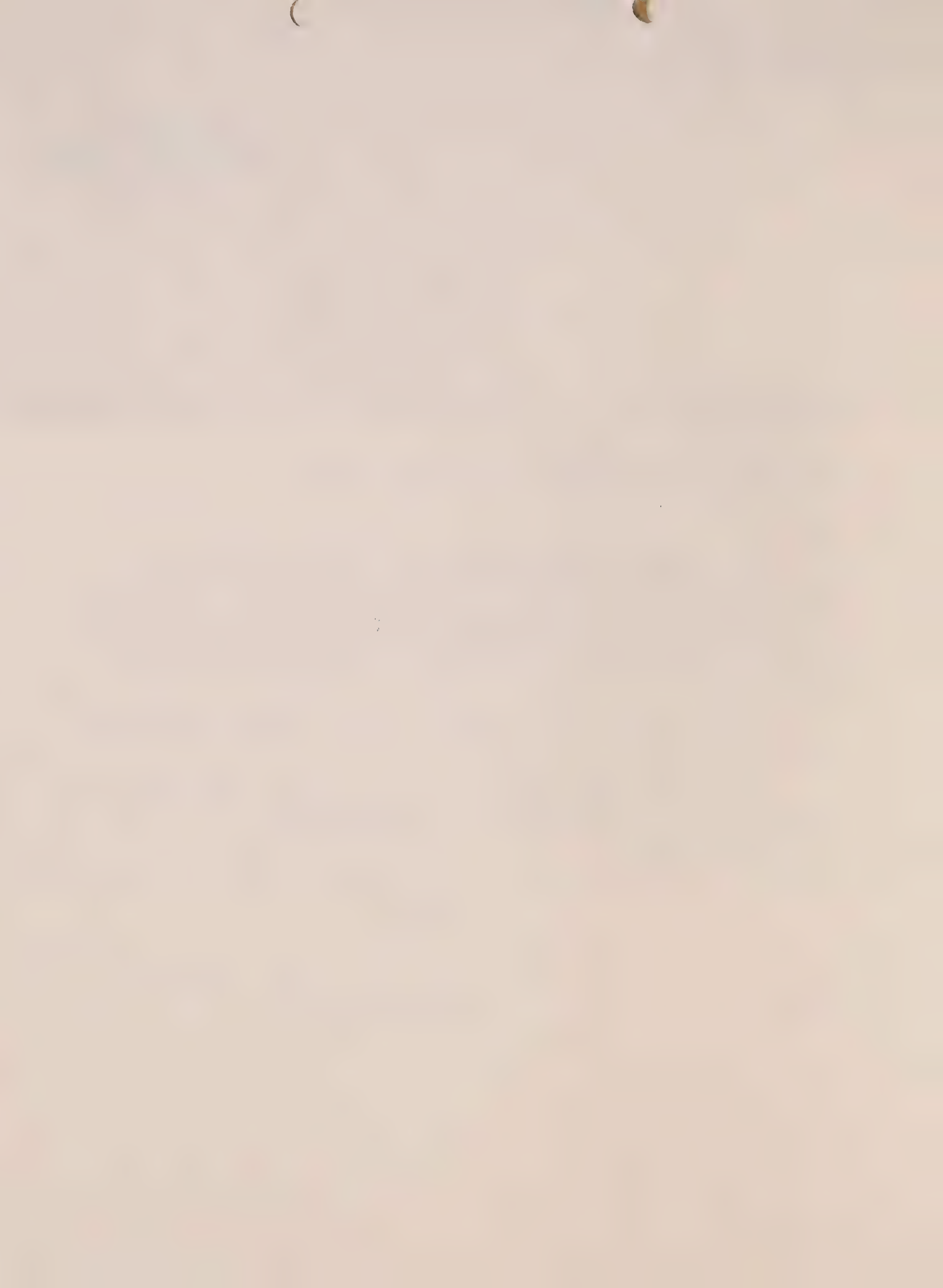
I'm going to Maine for lobster therapy and will return in mid-August or thereabouts. Will call then.

Regards to all.

Sincerely,

MBP:rg

MARY BORESZ PIKE



SOMERSTEIN & PIKE

ATTORNEYS AT LAW

233 BROADWAY
THE WOOLWORTH BUILDING
NEW YORK, NEW YORK 10279

(212) 227-4530

July 27, 1983

Burt Weschler
2914 Garfield Street, N.W.
Washington, D.C. 20008

Dear Burt:

Anne and I herewith deliver to you a copy of our opening brief in Hobson v. Wilson. We're eager for comments/suggestions/criticisms/whatever and are especially interested in any thoughts you may have on Point II, the issue of the applicability of 1985(3) in and to the District of Columbia. The same goes for the recent United Brotherhood case, i.e., what effect, if any, does it have on the applicability of 1985(3) under the Hobson facts?

By the time you receive this, Anne and I will be recovering in Maine--lobster therapy. Anne will be reachable up there for the entire month of August, and I will be reachable up there as well until mid-month. After that I'll be back here. We have to start our reply brief at the end of the month and will plan on catching up with you sometime before then.

Anne joins me in sending warmest regards to Fredi.

Sincerely,

MBP:rg

MARY BORESZ PIKE

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

DISTRICT BUILDING

WASHINGTON, D. C. 20004



IN REPLY REFER TO:

A:EES:jm

July 7, 1983

Anne Pilsbury, Esquire
P. O. Box 362
New York, New York 10009

Re: Julius Hobson, et al. v.
Jerry V. Wilson, et al.
No. 82-2159

Dear Ms. Pilsbury:

I am writing to direct your attention to the decision of the Supreme Court in United Brotherhood of Carpenters and Joiners, Local 610, AFL-CIO v. Scott, 51 U. S. L. W. 5173 (July 5, 1983). This is the Court's most extensive decision on the scope of an action under 42 U. S. C. §1985 (3), and we believe that it has very significant impact on Hobson.

We intend to deal with this decision in our Reply Brief rather than in a supplemental brief simply to avoid additional filings. You may wish to include a discussion of it in your main brief.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Edward E. Schwab".

Edward E. Schwab

cc: Mary Boresz Pike, Esquire
Morton Stavis, Esquire
Randolph Scott-McLaughlin, Esquire
Herb Semmel, Esquire
A. Raymond Randolph, Jr., Esquire
Marc Johnston, Esquire

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 82-2159

September Term, 1982

Civil Action 76-01326

Julius Hobson, et al.

v.

Jerry Wilson
Thomas J. Herlihy
Jack Acree
Christopher Scrapper
Edward Jagen
John Maheney &
Geroge Suter
Appellants

United States Court of Appeals
for the District of Columbia Circuit

FILED JUN 30 1983

GEORGE A. FISHER
CLERK

John B. Layton, et al.

And Consolidated Cases

BEFORE: Wright, Acting Chief Judge

O R D E R

On consideration of the motion of Plaintiff-Appellees and Cross-Appellant Women Strike for Peace for Leave to Exceed Page Limitation in their Principal Brief, and for Expeditious Consideration of this Motion, it is

ORDERED that the aforesaid motion is partially granted and leave is granted to movants to file a principal brief not in excess of 100 pages.

FOR THE COURT:

George A. Fisher
Clerk

BY:

Robert A. Bonner

Robert A. Bonner
Chief Deputy Clerk



1961

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 82-2159

September Term, 19 82

Civil Action No. 76-01326

Julius Hobson, et al.

v.

Jerry Wilson,
Thomas J. Herlihy,
Jack Acree,
Christopher Scrapper,
Edward Jagen
John Mahaney &
George Suter,

Appellants

John B. Layton, et al.

AND CONSOLIDATED CASE NOS. 82-2160,
82-2221, 82-2226 and 82-2227

United States Court of Appeals
for the District of Columbia Circuit

FILED JUN 20 1983

GEORGE A. FISHER
CLERK

BEFORE: Wright, Acting Chief Judge

O R D E R

The Clerk is directed to file the motion of appellant, the District of Columbia and present and former members of the Metropolitan Police Department, for leave to file a brief which exceeds the page limitations by twelve (12) pages. On consideration of the motion and the reasons set forth therein, it is

ORDERED that the Clerk is directed to file the aforesaid appellant's lodged brief.

For The Court:

GEORGE A. FISHER, CLERK

BY: *D. M. Cathey*
Daniel M. Cathey
First Deputy Clerk

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

JULIUS HOBSON, et al.,)
Plaintiff-Appellees)
and Cross-Appellants)
vs.)
JERRY WILSON, et al.,)
Defendants-Appellants)
_____)

No. 82-2159 (and consolidated cases
nos. 82-2160, 82-2221,
82-2226, & 82-2227)

MOTION BY PLAINTIFF-APPELLEES AND CROSS-APPELLANT
WOMEN STRIKE FOR PEACE FOR LEAVE TO EXCEED THE PAGE
LIMITATIONS IN THEIR PRINCIPAL BRIEF, AND FOR
EXPEDITIOUS CONSIDERATION OF THIS MOTION

The plaintiffs, here appellees and cross-appellants, hereby move the Court pursuant to Fed.R.App.P.28(h) and Local Rule 8 for permission to exceed the normal limit of 70 pages for non-printed briefs on the grounds that "extraordinary and compelling reasons" make it impossible for them to present their case within these limits.

Counsel for the opposing sides have indicated they do not intend to file oppositions to this motion and the consent of the FBI defendants to an earlier motion by plaintiffs to exceed page limits is already on record. (See FBI Defendants Response to Motion to Designate Defendants as Appellants and to Establish a Briefing Schedule, served January 11, 1983.)

Plaintiffs have previously alerted the Court to the need for additional pages. In the motion to establish a briefing schedule and clarify who were appellants and who were appellees in this multi-party and multi-issue case, the plaintiffs also asked leave to file an oversized brief. But that part of the earlier

motion was not addressed when the motion was granted. (See MOTION BY PLAINTIFFS/APPELLEES TO DESIGNATE DEFENDANTS AS APPELLANTS AND TO ESTABLISH A BRIEFING SCHEDULE served December 31, 1982.)

The reasons why additional pages are required in this case are as follows:

1. This is actually several cases combined in one. But despite the consolidation of cases, the defendants have not filed one brief. The FBI defendants (except for defendant Courtland Jones) have filed a brief, the District of Columbia defendants have filed a brief, and Courtland Jones has filed a brief. These briefs present different issues and it would be extremely unfair to require the plaintiffs to respond to three full briefs in one 70 page brief. It is simply not possible to do so.

2. In addition to responding to the multitude of issues raised by the three sets of defendants' briefs, the plaintiffs have a cross-appeal to present. It has two very major aspects.

(A). In the case of the one losing plaintiff, Women Strike for Peace, the cross-appeal addresses the issue of the application of state secret and informer's privileges to FBI files in the domestic intelligence area. This is an issue that has troubled the Court but never been before it in exactly this factual setting before. That set of issues could alone occupy a 70 page brief.

(B). In addition, with respect to all plaintiffs, there is a cross-appeal on the denial of injunctive relief to prohibit the FBI and DC defendants from ever again engaging in COINTELPRO-type activities designed to interfere with First Amendment rights. This issue raises substantial and important questions in the area of First Amendment rights. It too could occupy a whole brief.



3. The issues raised in the defendants' briefs are both novel and complex. This was the first case to go to a jury on the question of whether victims of the FBI's domestic counterintelligence activities (known as COINTELPRO) could obtain damages. It raises important and heretofore undecided questions regarding the quantum of proof needed to establish injury to First Amendment rights.

In addition defendants raise questions about the application of the law of civil conspiracy to a single entity, i.e. whether there can be a conspiracy within the FBI or the Metropolitan Police Department.

All these issues, as well as the others raised and not enumerated here, require reference to an extensive factual record of over 4,000 pages of transcript and 100 exhibits. This is not just another Freedom of Information Act case or a Title VII case which elaborates on themes already addressed by the Court. This was an action under Bivens v. Six Unknown Named Agents, 403 U.S.388 (1971) and, as mentioned above, was, to the plaintiffs' knowledge, the first such case (involving COINTELPRO) in the country to go to a jury.

4. In addition to the major issues in the First Amendment area raised, this case will present the Court squarely for the first time the question of whether a civil conspiracy to violate civil rights by government officials is cognizable in the District of Columbia under 42 U.S.C. §1985(3). A similar question with regard to 42 U.S.C. §1983 went to the U.S. Supreme Court. District of Columbia v. Carter, 409 U.S.418 (1973).



To require the plaintiffs to address all these matters and the more routine issues raised in three different defendants' briefs, as well as to brief their own substantial cross-appeal, in one 70 page brief would clearly put the plaintiffs at an impossible disadvantage. The District of Columbia defendants have already found it impossible to file even their single brief within the 70 pages limit and have a motion pending for additional pages.

Because of the size and unrelatedness of many of the issues that will be contained in plaintiffs' brief, it would be extremely difficult to file a motion to exceed page limits at the last minute, i.e. in 10 days before the brief is due, and then if the motion is not granted, try to edit the brief down. Therefore, the plaintiffs are filing this motion now and asking for expeditious consideration so that they may know before the brief is typed how many pages it may be.

Based on a careful study of first drafts and after allowing for zealous editing, the plaintiffs move the Court to allow them to file a single brief (including their cross-appeals) of 140 pages. The plaintiffs' earlier request for 105 pages was made before defendant Jones got separate counsel (and has raised new and separate issues), before the District of Columbia filed its over-sized brief, and before the plaintiffs had actually drafted any part of their brief. Counsel for appellees represent to the Court that the request for 140 pages is based on a firm good faith belief that that is the minimum number of pages required to present the case adequately.



Accordingly, the plaintiffs-appellees respectfully request that the Court enter an order allowing them to exceed the page limits established by Fed.R.App.P.28(h) and Local Rule 8.

Anne Pilsbury

ANNE PILSBURY
PO Box 362
New York, New York 10009

Mary Borecz Pike (AP)

MARY BORECZ PIKE
Somerstein & Pike
233 Broadway/ Suite 670
New York, New York 10279

Morton Stavis (AP)

Randolph Scott-McLaughlin (AP)

MORTON STAVIS
RANDOLPH SCOTT-MCLAUGHLIN
Center for Constitutional Rights
853 Broadway
New York, New York 10003

Date: June 20, 1983

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a copy of the foregoing MOTION BY PLAINTIFF-APPELLEES AND CROSS-APPELLANT WOMEN STRIKE FOR PEACE FOR LEAVE TO EXCEED THE PAGE LIMITATIONS..., AND FOR EXPEDITIOUS CONSIDERATION OF THIS MOTION TO: A.Raymond Randolph, Esq., 1800 Massachusetts Ave. N.W., Washington, D.C. 20036 (Counsel for Jones); Marc Johnston, Attorney, Appellate Staff/ Civil Div. Room 3617/ Department of Justice, Washington, D.C. 20530; and Richard Nettler, Asst. Corporation Counsel, District Building, 14th & Penna. Ave. N.W., Washington, D.C. 20004 this 20th day of June, 1983.

Anne Pilsbury
ANNE PILSBURY

Anne Pilsbury

ATTORNEY AT LAW

17 Danforth Street - Norway, Maine 04268

TELEPHONE
207 / 743-5583

June 14, 1983

CENTER LOVELL
207 / 925-1144

James A. Davey, Clerk
U.S. District Court
3rd & Constitution Ave. N.W.
Washington, D.C. 20001

RE: Hobson vs. Wilson
Civ. Act. No. 76-1326

Dear Mr. Davey:

In reviewing the docket sheets that were sent to the Court of Appeals with the official record in this case, we have discovered that for some reason an error was made and many critical docket enteries were not given a record number. I spoke today to Mr. Cathey in the Court of Appeals about this and he tells me that the numbering of the docket is done in your office. The last person I knew to be working on preparing the record for the appeal was Ms. Mary Deavers.

The record in this case is long and your office asked counsel to indicate those items that did not need to be included in the record on appeal. This we did; those items to be included are circled on the docket sheets sent to the Court of Appeals. The problem begins, as best as I can tell, on page 49 where there are seven docket enteries circled but no record number was given them. This continues for several pages thereafter. For example, the trial court's order denying injunctive relief on July 22, 1982, which is certainly part of the record, has no record number.

I would be most grateful if you would see that this problem is remedied right away. We are in the midst of writing our briefs and it will be impossible to complete them without proper record references.

If you have any questions, please feel free to call me or my co-counsel on the appeal, Mary Pike, at 212-227-4530. I am in New York working on the appeal and cannot be reached at my office in Maine. My mailing address here is: P.O. Box 362/ New York, N.Y. 10009.

Thank you very much.

Sincerely yours,

Anne Pilsbury
Anne Pilsbury

cc. Richard Nettler, Corporation Counsel
Marc Johnston, Assistant Attorney General
Clerk, U.S. Court of Appeals
(Reference to Hobson v. Wilson, consolidated
cases nos. 82-2159, 2160, 2221, 2226 and 2227)

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 82-2159

September Term, 19 82

Civil Action No. 76-01326

Julius Hobson, et al.

v.

Jerry Wilson,
Thomas J. Herlihy,
Jack Acree,
Christopher Scrapper,
Edward Jagen,
John Mahaney &
George Suter,

Appellants

John B. Layton, et al.

AND CONSOLIDATED CASE NOS. 82-2160, 82-2221,
82-2226 and 82-2227

United States Court of Appeals
for the District of Columbia Circuit

FILED MAY 19 1983

GEORGE A. FISHER
CLERK

BEFORE: Wright, Acting Chief Judge

O R D E R

On consideration of appellants' motions for extension of time in which to file briefs, it is

ORDERED that the aforesaid motion is granted only to the extent that the dates for filing the briefs of the parties set by order entered April 22, 1983 are extended fifteen (15) days.

For The Court:

GEORGE A. FISHER, CLERK

BY: *Daniel M. Cathey*
Daniel M. Cathey
First Deputy Clerk

SOMERSTEIN & PIKE

ATTORNEYS AT LAW

233 BROADWAY
THE WOOLWORTH BUILDING
NEW YORK, NEW YORK 10279

(212) 227-4530

May 17, 1983

George A. Fisher, Esq.
Clerk, United States Court of Appeals
United States Courthouse
Room 5423
Constitution Avenue and John Marshall Place, N.W.
Washington, D.C. 20001

Re: Julius Hobson, et al., v. Jerry
Wilson, et al., No. 82-2159 and
consolidated cases No. 82-2160,
No. 82-2221, No. 82-2226, and
No. 82-2227

Dear Mr. Fisher:

This is to confirm that plaintiffs-appellees have no opposition to the D.C. defendants' motion for a 30-day extension of time to and including June 23, 1983, providing, of course, that if granted, all filing dates subsequent to May 23, 1983, are changed to reflect the grant of the extension. We are advised that counsel for the remaining defendants-appellants will be filing or may already have filed motions seeking similar extensions. Provided they are limited to the same 30-day period as the D.C. defendants, we have no opposition to them either.

We would oppose further extensions, however, and will do so at the appropriate time, should it become necessary.

Very truly yours,

Mary Boresz Pike
Counsel for Plaintiffs-
Appellees

cc: Anne Pilsbury, Esq.
Herbert Semmel, Esq.
Randolph Scott-McLaughlin, Esq.

George A. Fisher, Esq.

May 17, 1983

Page 2

cc: (continued from page 1)
Morton Stavis, Esq.
Arthur Spitzer, Esq.
Marc Johnston, Esq.
Richard B. Nettler, Esq.
Raymond Randolph, Esq.

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

JULIUS HOBSON, et al.,)	
)	
Plaintiffs-Appellees,)	
)	
v.	)	Nos. 82-2159
	)	82-2160
JERRY WILSON, et al.,	)	82-2221
	)	82-2226
Defendants-Appellants.	)	82-2227
)	
)	

MOTION FOR EXTENSION OF TIME

Pursuant to Rule 26(b) of the Federal Rules of Appellate Procedure and Rule 8(h) of this Court, defendant-appellant Courtland J. Jones hereby requests an extension of time to file his brief from May 23, 1983 to and including June 23, 1983. The other parties to this appeal do not object to the motion and do not intend to file a response. In support of this motion, Jones states as follows:

1. Since April 1, 1983, the undersigned counsel for Mr. Jones has been deeply involved as a party plaintiff and defendant in a contested domestic relations case concerning custody of counsel's two minor children. This involvement has required extensive consultation by counsel with his personal attorneys, production of documents, answers to interrogatories, interviews of witnesses, and depositions during a two-week period in preparation for the trial scheduled to begin on May 16, 1983.

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2. Because of these unusual circumstances and counsel's extensive involvement in personal litigation during the foregoing period, counsel has been unable to devote sufficient time to the instant appeal and will be unable to prepare and file a brief for Mr. Jones on May 23, 1983, as scheduled.

3. These are appeals from a complex civil rights action brought by 11 plaintiffs against 61 defendants. The case was tried before a jury for several weeks and produced a trial transcript of over 3,000 pages. The jury found in favor of plaintiffs and awarded substantial compensatory and punitive damages; after verdict the district court awarded plaintiffs substantial attorneys' fees.

4. These appeals were docketed in this Court on September 28, 1982. On April 13, 1983, the record was filed with the clerk and on April 22, 1983 the Court established a briefing schedule. Under that schedule, Mr. Jones' main brief is due on May 23, 1983.

5. This is the first request for an extension of time made by Mr. Jones. Counsel is informed that the other defendants-appellants will likewise apply to this Court for an extension of time to file their brief. Counsel has informed all parties of his request for an extension of time, and no party objects to the motion.

WHEREFORE, defendant-appellant Courtland J. Jones respectfully requests that he be granted an extension of time to and including June 23, 1983 to file his brief.

Respectfully submitted,

By: A. Raymond Randolph/cv
A. Raymond Randolph

SHARP, RANDOLPH & GREEN
Suite 501
1800 Massachusetts Avenue, NW
Washington, DC 20036
(202) 659-2400

Attorney for Defendant-Appellant
Courtland J. Jones

Dated: May 13, 1983

United States Court of Appeals
for the District of Columbia Circuit

ENTRY OF APPEARANCE

No. 82-2160

CAPTION

Julius Hobson, et al.
v.
Jerry Wilson, et al.

PARTY

The Clerk will enter my appearance as counsel for:

☒ Appellant(s)
☐ Petitioner(s) Courtland J. Jones Name of Party
☐ Appellee(s)
☐ Respondent(s) _____ Name of Party
☐ Intervenor(s) _____ Name of Party
☐ Amicus Curiae _____ Name of Party

ATTORNEY

Name A. Raymond Randolph Phone 659-2400
Name _____ Phone _____
Name _____ Phone _____
Firm Sharp, Randolph & Green
Address 1800 Massachusetts Avenue, NW, Suite 501
Washington, DC 20036 Zip Code 20036

NOTE: Must be SUBMITTED by a member of the Bar of the United States Court of Appeals
for the District of Columbia Circuit.

((

((

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

JULIUS HOBSON, et al.,

Plaintiffs-Appellees,

v.

JERRY WILSON, et al.,

Defendants-Appellants.)

Nos. 82-2159

82-2160

82-2221

82-2226

82-2227

NOTICE OF FILING

TO: All Counsel
(see attached list)

PLEASE TAKE NOTICE that on the 13th day of May, 1983, we filed with the Clerk of the United States Court of Appeals for the District of Columbia Circuit Defendant-Appellant Courtland J. Jones' Motion for Extension of Time and Entry of Appearance, copies of which are herewith served upon you.

Respectfully submitted,




A. Raymond Randolph
Christopher L. Varner

SHARP, RANDOLPH & GREEN
1800 Massachusetts Avenue, NW
Suite 501
Washington, DC 20036
(202) 659-2400

Attorneys for Defendant-Appellant
Courtland J. Jones

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served a copy of the foregoing Notice of Filing, together with copies of documents referred to therein, by first class mail, postage prepaid to counsel listed on the attached page this 13th day of May, 1983.


Christopher L. Varner

Anne Pillsbury
Box 362
New York, NY 10009

Mary Boresz Pike
Somerstein & Pike
233 Broadway, Suite 670
New York, NY 10279

Randolph Scott-McLaughlin
Morton Stavis
Center for Constitutional Rights
853 Broadway
New York, NY 10003

Herb Semmel
Urban Law Institute
Antioch School of Law
1624 Crescent Place, NW
Washington, DC 20009

Richard B. Nettler
Charles L. Reischel
District Building
14th & E Streets, NW
Washington, DC 20004

Marc Johnson
Barbara L. Herwig
Department of Justice
Civil Division, Appellate Staff
10th & Constitution Avenue, NW
Washington, DC 20530

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

JULIUS BOBSON, et al.,)
)
Plaintiffs, Appellees, Cross-Appellants,)
)
v.) Nos. 82-2159,
) 82-2160, 82-2221,
JERRY WILSON, et al.,) 82-2226, and
) 82-2227
Defendants, Appellants, Cross-Appellees.)
)

MOTION FOR EXTENSION OF TIME

The Federal Defendants (Charles D. Brennan, George C. Moore, Gerould W. Pangburn and Gerald T. Grimaldi) through their undersigned counsel request that the time for filing their opening brief be extended thirty (30) days, from May 23, 1983, to and including June 22, 1983. This motion is made on the following grounds:

1. The record on appeal was filed on April 13, 1983. By prior order of this Court the opening brief on appeal in this case involving cross-appeals is to be filed by the defendants on May 23, 1983. See attached Order filed April 22, 1983. The instant Motion for Extension of Time is the only request the Federal Defendants have made for an enlargement of time.

2. Pursuant to this Court's April 22, 1983, Order, this case is to be included in the pool of cases to be drawn for the Court's November-December 1983 sitting period. Accordingly, the extension sought by this motion will not preclude the case from being heard during the sitting period when it normally would be set for oral argument.

3. This case involves sizeable damage claims made against the Federal Defendants in their individual capacities for alleged violations of the plaintiffs' First Amendment rights. The judgment from which the Federal Defendants appeal is based upon a jury verdict that itself purports to be based on a record consisting of (a) approximately 4,000 pages of testimony from a month-long trial and (b) over 100 exhibits. In addition, the record of the proceedings below includes more than 400 documents (many with attached exhibits) filed over a period of six years.

4. The extension the Federal Defendants seek is necessary for completion of the preparation of their opening brief because of (a) the magnitude of the record, (b) the number of issues that will be raised on appeal, and (c) the pre-existing obligations of the Federal Defendants' counsel in other litigation matters which have made it impossible for them to complete the brief within the time currently allowed. With regard to the last of these points Marc Johnston, the Civil Division, Appellate Staff attorney with primary responsibility for this case, has, since the record was filed, also been responsible for presenting oral arguments in American Friends Service Committee v. William H. Webster, D.C. Cir. Nos. 81-1735, 81-1980 and 83-1025, and Duncan Campbell v. United States, 9th Cir. No. 82-4451, and for preparing the government's reply to a 75-page Appellees' Answering Brief in David Bulloch v. United States, 10th Cir. Nos. 82-2245 and 82-2352; and David H. White, the Civil Division, Federal Programs Branch attorney who represented the Federal Defendants in the court below and is assisting with preparation of their brief on

appeal also has been responsible for settlement negotiations in Curtiss-Wright, Inc. v. General Electric, D.N.J., Civil Action No. 76-794, and for filing or responding to motions in Hashemi v. Campaigner Publications, D.D.C., Misc. No. 83-0017, McCarthy v. Kleindienst, D.D.C., Civil Action No. 72-844, and Tufts v. Bishop, D. Kans., Civil Action No. 80-1890.

5. Counsel for all of the other parties to this case have stated they do not object to the extension of time sought by the instant motion.

WHEREFORE, the Federal Defendants request that their motion be granted and that the time for filing their opening brief be extended thirty (30) days, to June 22, 1983.

Respectfully submitted,

Barbara L. Herwig / by M.J.
BARBARA L. HERWIG (202) 633-5425

Marc Johnston
MARC JOHNSTON (202) 633-3305
Attorneys
Appellate Staff
Civil Division, Rm 3627
Department of Justice
Washington, D.C. 20530

Attorneys for the Federal Defendants

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 82-2159

Julius Hobson, et al.

v.

Jerry Wilson,
Thomas J. Herlihy,
Jack Acree,
Christopher Scrapper,
Edward Jagen,
John Mahaney &
George Suter,
Appellants

John B. Lavton, et al.

AND CONSOLIDATED CASE NOS. 82-2160, 82-2221,
82-2226 and 82-2227

September Term, 19 82

Civil Action No. 76-01326

United States Court of Appeals
for the District of Columbia Circuit

FILED APR 22 1983

GEORGE A. FISHER
CLERK

ORDER

The certified original record having been filed on April 13, 1983, it is

ORDERED that a briefing schedule is set as follows:

Defendants' brief	-	May 23, 1983
Plaintiffs' brief as cross-appellant	-	July 5, 1983
Defendants' reply briefs and responses to cross- appeal	-	August 8, 1983
Plaintiffs' reply to the response to their cross- appeal	-	August 23, 1983

Based upon the foregoing briefing schedule, the Clerk shall include these cases in the pool of cases to be drawn for this Court's November-December 1983 sitting period.

For The Court

GEORGE A. FISHER, CLERK

By:

Daniel M. Cathey
Daniel M. Cathey
First Deputy Clerk

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of May, 1983, I served the foregoing Motion for Extension Of Time upon counsel by causing copies to be mailed, postage prepaid to:

Anne Pilsbury
P.O. Box 362
New York, New York 10009
(Attorney for the Plaintiffs)

Richard B. Nettler
Assistant Corporation Counsel
Room 309, District Building
14th & Pennsylvania Ave., N.W.
Washington, D.C. 20004
(Attorney for the District of Columbia Defendants)

Ray Randolph
Sharp, Randolph & Green
Suite 501
1800 Massachusetts Avenue
Washington, D.C. 20036
(Attorney for Defendant Courtland J. Jones)



MARC JOHNSTON

UNITED STATES COURT OF APPEALS
For The District of Columbia Circuit

JULIUS HOBSON, et al.

v.

No. 82-2159

JERRY WILSON,
THOMAS J. HERLIHY,
JACK ACREE,
CHRISTOPHER SCRAPPER,
EDWARD JAGEN,
JOHN MAHANEY &
GEORGE SUTER,

Appellants.

JOHN B. LAYTON, et al.

AND CONSOLIDATED CASE NOS. 82-2160,
82-2221, 82-2226 and 82-2227


MOTION FOR EXTENSION OF TIME
WITHIN WHICH TO FILE BRIEF

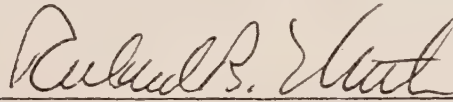
For the reasons stated below, the District of Columbia appellants move the Court to extend from May 23, 1983, to and including June 23, 1983, the time within which they must file their brief. No further extensions of time will be requested. Moreover, counsel for appellees has authorized undersigned counsel to represent that she has no objection to the granting of this motion.

Counsel primarily responsible for the brief in this matter has been responsible for preparing and filing briefs in other matters in the District of Columbia Court of Appeals (Interstate General v. Rental Housing Commission, D.C. App. No. 81-1231; District of Columbia v. Clark, D.C. App. No. 82-1645), as well as responses to substantive motions in other matters. In addition to these and other responsibilities, undersigned counsel has two briefs due in this Court (Bostic v. Just,

U.S. App. No. 83-1156; Jones v. Public Defender Service, U.S. App. No. 83-1183); and a brief due in the United States Court of Appeals for the Federal Circuit (C.P. Squire v. United States, U.S. App. No. 83-644) and two other briefs due in the District of Columbia Court of Appeals (Brown v. Just, D.C. App. No. 82-1195; Rosemond v. Whitfield, D.C. App. No. 82-1235). In addition, preparation of the brief in these five consolidated appeals has been hindered by the size of the record which includes (1) approximately 4000 pages of testimony, (2) over 100 exhibits and (3) more than 400 documents and attached exhibits filed over a period of six years.

Accordingly, due to the press of these matters and the Office's present shortage of secretarial assistance, completion of a draft brief, review thereof, and the final typing and reproduction of the brief cannot be accomplished prior to June 23, 1983, which would still allow for the matter to be scheduled on the November-December calendar.



CHARLES L. REISCHEL,
Deputy Corporation Counsel, D. C.
Appellate Division


RICHARD B. NETTLER,
Assistant Corporation
Counsel, D. C.

Attorneys for District of
Columbia Appellants,
Room 309 District Building
14th & Pennsylvania Ave., N. W.
Washington, D. C. 20004
Telephone: 727-6252

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was mailed, postage prepaid, this 13th day of May 1983, to Anne Pilsbury, Esq., P.O. Box 362, New York, New York 10009; Marc Johnston, Esq., Appellate Staff, Civil Division, U.S. Department of Justice, 10th & Pennsylvania Avenue, N. W., Washington, D. C. 20530; Herb Semmel, Esq., Antioch School of Law for the Urban Law Institute, 1624 Crescent Place, N. W. Washington, D. C. 20009; Randolph Scott-McLaughlin, Esq., Center for Constitutional Rights, 853 Broadway, New York, New York 10003; Morton Stavis, Esq., Center for Constitutional Rights, 853 Broadway, New York, New York 10003; Mary Boresz Pike, Esq., 233 Broadway, Suite 670, New York, New York 10279; and A. Raymond Randolph, Jr., Esq., 1800 Mass. Ave., N.W., Washington, D. C. 20036.



RICHARD B. NETTLER,
Assistant Corporation
Counsel, D. C.

UNITED STATES COURT OF APPEALS
For The District Of Columbia Circuit

FILED MAY 6 1983
GEORGE A. FISHER
CLERK

JULIUS HOBSON, et al.

v.

No. 82-2159

JERRY WILSON,
THOMAS J. HERLIHY,
JACK ACREE,
CHRISTOPHER SCRAPER,
EDWARD JAGEN,
JOHN MAHANEY &
GEORGE SUTER,

Appellants.

JOHN B. LAYTON, et al.

AND CONSOLIDATED CASE NOS. 82-2160, :
82-2221, 82-2226 and 82-2227 :

JOINT MOTION FOR LEAVE TO PROCEED UNDER
RULE 30(c), DEFERRED APPENDIX

For the reasons stated below, the District of Columbia defendants, the federal defendants and plaintiffs jointly move the Court for leave to defer preparation and filing of an appendix until 21 days after the filing of plaintiffs' reply to the response to their cross-appeal.

The briefs filed by all the parties in the above-referenced consolidated appeals will be relying upon (1) approximately 4,000 pages of testimony from a month trial, (2) over 100 exhibits and (3) more than 400 documents and attached exhibits filed over a period of six

MOTION GRANTED
By George A. Fisher, Clerk
First Deputy Clerk
MAY 11 1983

UNITED STATES COURT OF APPEALS
For The District Of Columbia Circuit

JULIUS HOBSON, et al.

v.

JERRY WILSON,
THOMAS J. HERLIHY,
JACK ACREE,
CHRISTOPHER SCRAPPER,
EDWARD JAGEN,
JOHN MAHANEY &
GEORGE SUTER,

Appellants.

JOHN B. LAYTON, et al.

AND CONSOLIDATED CASE NOS. 82-2160,
82-2221, 82-2226 and 82-2227

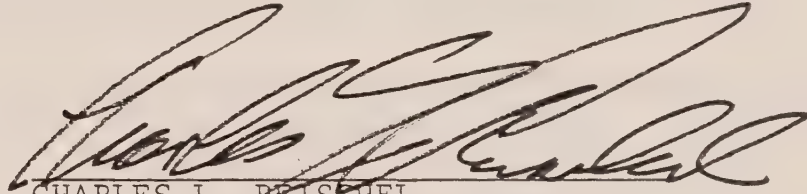
No. 82-2159

JOINT MOTION FOR LEAVE TO PROCEED UNDER
RULE 30(c), DEFERRED APPENDIX

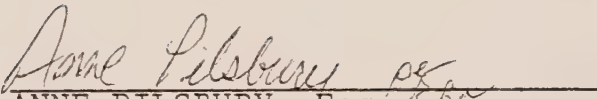
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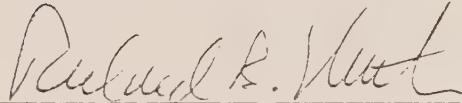
years. As a result, it will not be possible to file an appendix until 21 days after the filing of plaintiffs' reply to the response to their cross-appeal.



CHARLES L. REISCHEL,
Deputy Corporation Counsel, D. C.
Appellate Division

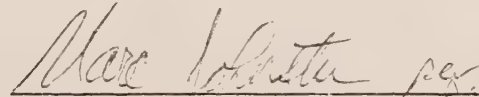


ANNE PILSBURY, Esq. *R.B.*
P.O. Box 362
New York, New York 10009
Attorney for Appellee/
Cross-Appellant



RICHARD B. NETTLER,
Assistant Corporation
Counsel, D. C.

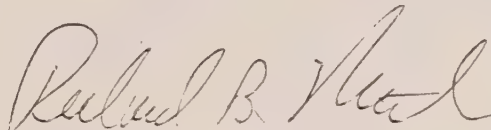
Attorneys for District of
Columbia Appellants,
Room 309, District Building
14th & Pennsylvania Ave., N. W.
Washington, D. C. 20004
Telephone: 727-6252



MARC JOHNSTON, Esq. *R.B.*
United States Attorney
Appellate Staff, Civil Division
Attorney for Federal Appellants
U.S. Department of Justice
10th & Pennsylvania Avenue, N. W.
Washington, D. C. 20530

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Joint Motion for Leave to Proceed Under Rule 30(c), Deferred Appendix was mailed, postage prepaid, this 6th day of May 1983, to Herb Semmel, Esquire, Antioch School of Law for the Urban Law Institute, 1624 Crescent Place, N.W., Washington, D. C. 20009; to Randolph Scott-McLaughlin, Esquire, Center for Constitutional Rights, 853 Broadway, New York, New York, 10003; to Morton Stavis, Esquire, Center for Constitutional Rights, 853 Broadway, New York, New York 10003; and to Mary Boresz Pike, Esquire, 233 Broadway, Suite 670, New York, New York 10279.



RICHARD B. NETTLER,
Assistant Corporation
Counsel, D. C.

I hereby certify that I have mailed a copy of the foregoing change of address to Marc Johnston, Attorney, Appellate Staff, Dept. of Justice, 10th & Penna. Ave. N.W. 20530 and to Richard B. Nettler, Asst. Corporation Counsel, District Building, 14th & Penna. Ave. N.W., Washington, D.C 20004 this 25th day of April, 1983.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 82-2159

September Term, 19 82
Civil Action No. 76-01326

Julius Hobson, et al.

v.

Jerry Wilson,
Thomas J. Herlihy,
Jack Acree,
Christopher Scrapper,
Edward Jagen,
John Mahaney &
George Suter,
Appellants

John B. Lavton, et al.

AND CONSOLIDATED CASE NOS. 82-2160, 82-2221,
82-2226 and 82-2227

United States Court of Appeals
for the District of Columbia Circuit

FILED APR 22 1983

GEORGE A. FISHER
CLERK

ORDER

The certified original record having been filed on April 13, 1983, it is

ORDERED that a briefing schedule is set as follows:

Defendants' brief	-	May 23, 1983
Plaintiffs' brief as cross-appellant	-	July 5, 1983
Defendants' reply briefs and responses to cross- appeal	-	August 8, 1983
Plaintiffs' reply to the response to their cross- appeal	-	August 23, 1983

Based upon the foregoing briefing schedule, the Clerk shall include these cases in the pool of cases to be drawn for this Court's November-December 1983 sitting period.

For The Court

GEORGE A. FISHER, CLERK

By: *Daniel M. Cathey*
Daniel M. Cathey
First Deputy Clerk

GEORGE A. FISHER
CLERK

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT
WASHINGTON, D. C. 20001
April 13, 1983

Mary B. Pike, Attorney at Law
233 Broadway, Suite 730
New York, New York 10279

Dist. Ct. Civil
No. CA76-01326

Dist. Ct. Crim.
No. _____

You are hereby notified that the record - ~~certified index~~ in Case
No. 82-2159 - Julius Hobson, et al. v. Jerry Wilson, et al. (John B. Layton,
82-2160 82-2221
82-2226 82-2227 et al.)

was docketed on April 13, 1983

Pursuant to Rules 30 and 31(a) of the Federal Rules of Appellate Procedure the brief and appendix or record excerpts (see amended Rule 9 - attached) of appellant/petitioner must be filed within 40 days from the date on which the record or certified index is docketed, unless otherwise ordered.

Please read the attachments carefully. They deal with recent revisions to the General Rules of this Court with which counsel may not be familiar, particularly Rule 8.

Our general information telephone number is (202) 535-3300. Business hours are 9:00 a.m. to 4:00 p.m. We will be happy to answer your procedural questions. It has been our experience, however, that most questions can be answered by referring to the Federal Rules of Appellate Procedure and the General Rules of this Court.

Very truly yours,

GEORGE A. FISHER
Clerk

ENCLOSURES

Form G
8-1-79
Revised 11/30/81

INFORMATION

All filings must contain the signature of at least one member of the Bar of this Court, the firm name, address and telephone number.

MOTIONS

Rule 6(e) of the General Rules of this Court requires that motions be filed on letter size paper and not be backed.

BRIEFS

In addition to the form and content of briefs as required by the Federal Rules of Appellate Procedure, briefs submitted for filing must also comply with the provisions of Rule 8 of the General Rules of this Court.

The Court has directed that briefs not in compliance with the provisions of the Federal Rules of Appellate Procedure and the General Rules be rejected.

BILLS OF COSTS

Counsel are required to submit requests for taxation of costs on a form supplied by the Court at the time of decision.

RULE 8 OF THE GENERAL RULES OF THIS COURT

FORM OF PRINTED BRIEFS, APPENDICES, PETITIONS AND MOTIONS (See Rule 32, Federal Rules of Appellate Procedure)

(a) CLERK SHALL REFUSE TO FILE IF NOT PRINTED IN CONFORMITY WITH FEDERAL RULES OF APPELLATE PROCEDURE. The Clerk shall refuse to file any brief and appendix which has been printed otherwise than in conformity with the Federal Rules of Appellate Procedure. The printed briefs and appendices must be clear and legible and, in default of this requirement, shall be rejected for filing by the Clerk.

(b) CONTENTS OF BRIEF. In addition to the requirements of Rule 28, Federal Rules of Appellate Procedure, at the bottom of the statement of issues presented for review, counsel shall indicate whether or not the pending case was previously before this Court, or any other court, under the same or similar title and state the name and number of such prior case. Counsel shall also indicate any other related cases of which he is aware, either presently pending in this Court or in any other court, or that may be presented to this Court or to any other court in the future. The purpose of this requirement is to enable the Court to determine whether the instant case should be assigned to a particular division of the Court, or to a new division chosen by lot, and to consider what disposition should be made of the case. For the purposes of this Rule: (i) the phrase "any other court" means any other United States Court of Appeals, or any other court (whether federal or local) in the District of Columbia; and (ii) the phrase "any other related cases" means cases involving the same parties and the same or similar issues, or involving parties similarly situated and the same or similar issues, as the pending case.

Counsel shall place asterisks in the left margin of the Table of Cases to mark those cases or authorities on which counsel chiefly rely and shall add at the end of the table:

*Cases or authorities chiefly relied upon are marked by asterisks.

In all briefs wherein the argument portion extends beyond twenty pages, regardless of whether the brief is printed or is reproduced by other methods, there shall be included as a part of the brief immediately preceding the argument portion, a summary of argument, suitably paragraphed, which should be a succinct, but accurate and clear, condensation of the argument actually made in the body of the brief. It should not be a mere repetition of the headings under which the argument is arranged. The summary of argument shall not be considered part of the brief for purposes of page limitations imposed by Rule 28(g), Federal Rules of Appellate Procedure. (See GRC 8(g)).

(c) CERTIFICATE OF COUNSEL. In all civil and agency cases a certificate shall be furnished by counsel of record for all private (non-governmental) parties, including specifically all appellants (petitioners) and all appellees (respondents), as well as all intervenors and amici, setting forth a complete list of all parties and amici who have appeared below. In cases where a corporation is a party or amicus, the certificate of counsel for that party or amicus shall also list all parent companies, subsidiaries and affiliates of that party or amicus. Such certificate also shall indicate which parties and amici are in support of the appellant (petitioner), which are in support of the appellee (respondent), and which are taking a position apart from those of the appellant (petitioner) and the appellee (respondent). This certificate shall be incorporated on the first page of each brief before the table of contents or index. The purpose of this certificate is to enable the Judges of this Court to evaluate possible disqualification or recusal and the time and alignment of parties for oral argument. The form of the certificate shall be as follows:

Number and title of case
Certificate Required by Rule 8(c)
of the General Rules of the United
States Court of Appeals for the
District of Columbia Circuit:

The undersigned, counsel of record for _____,
certifies that the following listed parties and amici
(if any) appeared below:

(here list all names of all such parties and amici (in addition, counsel for a party or amicus which is a corporation shall here list all parent companies, subsidiaries and affiliates of that corporation), and indicate the position the respective parties and any amici take with regard to the Order(s) or Judgment(s) under appellate review)

These representations are made in order that Judges of this Court, inter alia, may evaluate possible disqualification or recusal.

Attorney of record for _____.

(d) STATUTES AND REGULATIONS. In addition to the requirements of Rule 28 of the Federal Rules of Appellate Procedure, each party shall submit an appendix, or appendices, setting forth the applicable text of all pertinent statutes and regulations, except that no such appendix or appendices shall be required of the other parties if the appellant or petitioner has submitted the above described appendix or appendices. The appendix or appendices may be filed as a separate document or may be incorporated within the covers of a brief. In the event the appendix is bound with a brief, it shall be

separated from the text of the brief by a distinctively colored page of separation. Should a brief contain more than one appendix, those appendices shall be separated from each other and from the text of the brief by distinctively colored pages of separation.

(e) REFERENCES TO PARTIES AND RULINGS. In addition to the requirements of Rule 28, Federal Rules of Appellate Procedure, appellant's brief shall contain a section immediately preceding the statement of the case which shall be headed "References to Parties and Rulings". In this section counsel shall make such references as may be feasible identifying any opinion, memoranda, findings and conclusions, or other oral or written ruling in which the court sets forth the basis of the order or the judgment presented for review by this Court. The references shall identify the judge involved and the date of the ruling. The references should also include reporter citations when available, and page references in the appendix of the parties or reporters' transcript.

If there are any parties to the litigation whose identity is not revealed by the caption on appeal, appellant shall set forth the names of all the parties.

The foregoing provision shall also apply to petitions for review of rulings and orders of Administrative Agencies.

(f) CITATIONS IN BRIEFS. Dual or parallel citation of cases is not required in the text of briefs. Published decisions of this Court may be cited in such text by reference either to the reports of this Court or to the Federal Reporter; however, both citations shall be given in the table of contents, e.g., Thompson v. Deal, 67 App. D.C. 327, 92 F.2d 478 (1937); Walker v. United States, 124 U.S. App. D.C. 194, 363, F.2d 681 (1966). Citations of state court decisions included in the National Reporter System shall be to that System in both text and in the table of cases; however, if official state court reports or citations thereof are available to the parties or to counsel, those citations shall also be included in the table of cases. Unpublished orders, including explanatory memoranda of this Court, are not to be cited in briefs or memoranda of counsel as precedents. However, counsel may refer to such orders and memoranda for such purposes as application of the doctrines of res judicata, collateral estoppel and law of the case, which turn on the binding effect of the judgment, and not on its quality as precedent. See Rule 13(c). Citations to all federal statutes, including those statutes applicable to the District of Columbia, shall refer to the current official code or its supplement, or if there is no current official code, to the current preferred unofficial code or its supplement; citation to the official session laws may also be included but is not required unless there is not code citation.

(g) LENGTH OF BRIEFS. Except by permission of the Court, principal briefs shall not exceed 50 pages of standard typographic printing or 70 pages of printing by any other process of duplicating or copying, exclusive of pages containing the table of contents, table of citations and any addendum containing statutes, rules, regulations, etc. And except by permission of the Court, reply briefs shall not exceed 25 pages of standard typographic printing or 35 pages of printing by any other process of duplicating or copying.

(h) REQUESTS FOR LEAVE TO EXCEED PAGE LIMITATIONS AND FOR EXTENSIONS OF TIME FOR FILING. (as amended 11/30/81)

(1) Timeliness of Request. All motions requesting permission to exceed the page limitations set forth in this Rule, or to extend the time for filing briefs, must be filed at least ten days before the main briefs are due to be filed, and at least five days before a reply brief is due to be filed. Before filing such a motion, counsel shall contact other counsel and recite in the opening paragraph of the motion the position taken by other counsel with respect to the grant of the motion and whether or not such other counsel intend to file an opposition or other form of response. At the time of filing a motion to which other counsel have stated an intention to file an opposition or response, and in the absence of personal service upon such other counsel, movant's counsel shall also give telephonic notice to other counsel of such filing and shall serve such other counsel by using the most expeditious form of delivery by mail or overnight delivery service. Any opposition or response thereto must be filed within three business days after personal service or telephonic notice. If counsel is unable to contact opposing counsel or to give telephonic notice (should personal service not be feasible) as specified by the foregoing, counsel shall recite in the opening paragraph of the motion the efforts that have been made to do so.

(2) Extra-Long Briefs. The Court looks with disfavor upon motions to exceed the page limitation, and such motions will only be granted for extraordinary and compelling reasons.

(i) TYPEWRITTEN OR MIMEOGRAPHED BRIEFS. A party, other than one who has been allowed to appeal in forma pauperis, who desires to be allowed to file a brief and appendix in typewritten (or mimeographed) form rather than the form prescribed by Rule 32, Federal Rules of Appellate Procedure, shall file a motion, accompanied by an affidavit stating whether he is employed, and if so, the amount of his wages or salary, and setting forth his financial condition, or otherwise making an appropriate showing to justify the relief sought. Such application or motion shall be filed within 5 days after the record is filed, unless excusable neglect for failure to file same within that time be shown.

(j) NUMBER OF BRIEFS REQUIRED IN NON-INDIGENT APPEALS. The Clerk of this Court is hereby authorized to accept fifteen (15) copies of briefs in non-indigent appeals as substantial compliance with Rule 31(b) of the Federal Rules of Appellate Procedure. In the event a suggestion for rehearing en banc is granted, counsel shall furnish nine (9) additional copies of their briefs.

(k) UP-DATING OF BRIEFS. Upon receipt of notice that a case has been placed on the calendar for oral argument on a particular date, counsel for a party of record may file in printed or typewritten form, a supplemental brief limited to the citation and discussion of cases, statutes, rules and other relevant authorities issued subsequent to the filing of the party's last brief. An original and 14 copies of such a supplemental brief, printed or duplicated in accordance with Rule 32, Federal Rules of Appellate Procedure and Rule 8 of these rules, may be filed at any time between receipt of notice of oral argument and a date not less than 7 days before the scheduled date of such oral argument. The covers of supplemental briefs shall be yellow.

RULE 9(a) OF THE GENERAL RULES OF THIS COURT
(as amended 11/02/81)

APPENDIX TO THE BRIEF

(a) Filing and Form.

(1) Private Civil Cases. Appeals from the District Court in civil cases to which the United States or any agency or officer thereof is not a party shall be on the original record without requirement of the appendix prescribed by Rule 30, Federal Rules of Appellate Procedure. At the time of filing of appellant's brief, appellant shall file seven copies of the following portions of the District Court record, preceded by a cover sheet bearing the case name and number and captioned "Record Excerpts":

- (A) relevant entries from the docket sheet;
- (B) a list of relevant documents and exhibits; and
- (C) the judgment, ruling, or order appealed from and any other order or orders sought to be reviewed, and any supporting opinion, memorandum of decision, findings of fact and conclusions of law, or statement of reasons, whether filed or delivered orally by the District Court.

Record excerpts may also include other short portions of the record that are directly relevant to the issues raised on appeal, but the Court looks with disfavor on additions unnecessary to the disposition of the appeal. Copies of the record excerpts filed with the Court and served on other parties shall be reproduced on white paper by any duplicating or copying process capable of producing a clear black image. The copies shall be separately bound. The copies may be reproduced in actual size, even though that size differs from page sizes otherwise required in this Court.

(2) All Other Cases. In all other cases, Rule 30, Federal Rules of Appellate Procedure, shall govern the filing of the appendix to the briefs. In such appeals, an appellant shall cause to be printed in the appendix the findings of fact and conclusions of law of the District Court and opinion, if any. (Seven copies of the appendix prepared by any method of duplication which provides a clear black image on white paper may be filed.) However, in the event of a hearing or rehearing en banc, counsel for appellant may be required to furnish additional copies of the appendix. The foregoing provisions shall also apply to petitions for review of rulings and orders of administrative agencies.

(3) Unnecessary Record Items Not to be Included. Counsel shall not burden the appendix or, in private civil cases, the record excerpts, with material of excessive length or items that do not bear directly on the issues raised on appeal. Costs shall not be awarded for unnecessary reproduction of items, such as discovery materials, pretrial briefs, or interlocutory motions or rulings that lack direct relevance to the appeal. Any portion of the record, whether or not included in an appendix or record excerpts, may be relied upon by the parties and by the Court.

(4) Motion to Dispense with Appendix or Record Excerpts. In all appeals, by motion, upon good cause shown, appellant may be permitted to dispense with the requirement of reproducing the record or any part thereof.

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT
WASHINGTON, D. C. 20001

NOTICE

At the last Circuit Judicial Conference, the Chief Judge announced that the Court has implemented a plan designed to reduce the Court's backlog of ready cases and to cut the time lapse between the filing of cases and their disposition. As a part of this program, the Court is adhering to certain internal procedures designed to hasten the announcement of its opinions and other dispositions and is adding an additional panel sitting each week during the regularly scheduled sitting periods. This plan has been highly successful and the Court is cutting sharply into its backlog. The Court is also scheduling its oral arguments further in advance than had been the previous practice, thereby reducing the necessity of seeking continuances and, to a greater degree, assuring that each panel will hear a full slate of cases each sitting day.

In the past, because of its backlog, the Court has liberally granted time extensions for the filing of records, briefs and appendices. Unfortunately, this practice has significantly reduced the number of cases presently ready for placement on the oral argument calendar and, if allowed to continue, will interfere with future oral argument calendars.

The purpose of this Notice is to advise that it has become necessary for the Court to take a firm position with respect to the grant of routine requests for additional time beyond that provided by the Federal Rules and by the Local Rules of this Court. Toward this end, the Court has instructed the Clerk's Office to advise counsel and litigants of this new policy and, effective October 1, 1981, to grant extensions of time only when such action will not preclude a case from being heard during the sitting period when it would normally have been set for oral argument.

United States Court of Appeals
United States Court of Appeals
District of Columbia Circuit
United States Court of Appeals

No. FILED JUN 15 1982

September Term, 19

GEORGE A. FISHER
CLERK

BEFORE: Robinson, CJ; Wright, Tamm, MacKinnon, Wilkey, Wald, Mikva,
Edwards, Ginsburg and Bork, Circuit Judges

O R D E R

It is ORDERED, by the Court, *en banc*, *sua sponte*, that Rule 14 of the General Rules of this Court be, and it is hereby, amended by deleting all of the present provisions of subparagraph (a)(1) thereof, and by substituting in lieu of these provisions a new subparagraph (a)(1), which shall be and read as follows:

(a) *Petitions for Rehearing and Suggestions for Hearing and Rehearing En Banc.*

(1) *Time.* A party that suggests pursuant to Rule 35(b), Federal Rules of Appellate Procedure, the appropriateness of an initial hearing *en banc*, shall file the suggestion on or before the date on which appellee's brief is due to be filed. Any party that wishes to file a petition for rehearing pursuant to Rule 40, Federal Rules of Appellate Procedure, or a suggestion of the appropriateness of rehearing *en banc*, in a case in which neither the United States nor an agency or officer thereof is a party, shall do so within 30 days after entry of judgment. In all cases in which the United States, or an agency or officer thereof, is a party, the time within which any party may seek rehearing shall be 45 days after entry of judgment. The time for filing a petition for rehearing or a suggestion of the appropriateness of a rehearing *en banc* will not be extended except for good cause shown.

Per Curiam

FILED: June 15, 1982



MJohnston:bet
145-12-4929

Washington, D.C. 20530

April 18, 1983

Mr. James F. Davey
Clerk, U.S. District Court
3rd & Constitution Ave., N.W.
Room 1825
Washington, D.C. 20001

Re: Julius Hobson, et al. v. Jerry Wilson,
et al., D.D.C. Civil Action No. 76-1326.

Dear Mr. Davey:

Enclosed are copies of six documents that, we are informed,
are missing from the court's record:

June 15, 1982:	Memorandum of deft. William H. Webster
June 22, 1982:	Memorandum of deft. William H. Webster
June 22, 1982:	Reply of D.C. defts.
June 28, 1982:	Motion of pltf. for hearing
June 30, 1982:	Correction
July 8, 1982:	Oppositon of deft. William H. Webster

We understand that counsel for the District of Columbia defendants and counsel for the plaintiffs will supply the court with copies of other missing documents. These materials should be forwarded to the court of appeals to supplement the record on appeal.

Very truly yours,



MARC JOHNSTON
Attorney, Appellate Staff
Civil Division

cc: Richard Nettler
Assistant Corporation Counsel
District Building
14th & E Street, N.W.
Washington, D.C. 20004

Ann Pilsbury
17 Danforth Street
Norway, Maine 04268

Ray Randolph
Sharp, Randolph & Green
Suite 501
1800 Massachusetts Avenue
Washington, D.C. 20036



MJ:lcm
145-12-4929

Telephone:
633-3305

Washington, D.C. 20530

28 DEC 1982

Mr. George A. Fisher
Clerk, United States Court of Appeals
for the District of Columbia Circuit
U.S. Courthouse, Room 5423
Third St. & Constitution Ave., N.W.
Washington, D.C. 20001

Re: Julius Hobson, et al. v. Jerry Wilson,
et al., D.C. Cir. No. 82-2159, and
consolidated appeals

Dear Mr. Fisher:

With regard to the pending motion to dismiss appeals filed by the plaintiffs in this case, we wish to bring to the Court's attention the recent decision in Webb v. Department of Health and Human Services, D.C. Cir. No. 81-2345 (December 14, 1982), slip op. at 7-10.

Sincerely,

MARC JOHNSTON
Attorney, Appellate Staff
Civil Division

cc: Anne Pillsbury
17 Danforth Street
Norway, Maine 04268

Randolph Scott-McLaughlin
Center for Constitutional Rights
853 Broadway
New York, New York 10003

(continued on next page)

cc: Mary Boresz Pike
Somerstein & Pike
233 Broadway, Suite 670
New York, New York 10279

Herb Semmel
Antioch School of Law for
the Urban Law Institute
1624 Crescent Place, N.W.
Washington, D.C. 20009

Morton Stavis
Center for Constitutional
Rights
853 Broadway
New York, New York 10003

Richard B. Nettler
District Building
14th Street, N.W.
Washington, D.C. 20004

Ray Randolph
Sharp, Randolph & Green
Suite 501
1800 Massachusetts Ave., N.W.
Washington, D.C. 20036

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 82-2159

September Term, 1982

William F. Sullivan, et al.

v.

Gerry Wilson,
Thomas J. Herlihy,
Jack Acree,
Christopher Scrappier,
Edward Jagen,
John Mahoney &
George Sutter,

Appellants

John B. Layton, et al.

AND CONSOLIDATED CASE NOS. 82-2160, 82-2221,
82-2226 and 82-2227

United States Court of Appeals
for the District of Columbia Circuit

FILED JAN 21 1983

GEORGE A. FISHER
CLERK

ORDER

On consideration of the motion by appellants to designate
the appellants and to establish a briefing schedule for the
cross-appeal filed thereto, it is

ORDERED that the aforesaid motion be granted and the following
cross-appeal briefing schedule shall apply:

1. defendants' brief will be due 40 days after the record
is filed or on March 10, 1983 whichever is later;
2. plaintiffs' brief as cross-appellant and in response to
defendants' brief shall be filed 40 days after service
of defendants' brief;
3. defendants' reply briefs and responses to cross-appeal
shall be filed 30 days after service of plaintiffs' brief;
4. plaintiffs' reply to the response to their cross-appeal
shall be filed 14 days after service of defendants' briefs.

For The Court

GEORGE A. FISHER, CLERK

By: *Daniel M. Cichay*
Daniel M. Cichay

*Extended by
15 days*

THE UNIVERSITY OF CHICAGO
LIBRARY

100

GEORGE W. BISHOP
1871-1941

Anne Pilsbury
ATTORNEY AT LAW
17 Danforth Street - Norway, Maine 04268

TELEPHONE
207 / 743-5583

CENTER LOVELL
207 / 925-1144

December 31, 1982

George A. Fisher, Clerk
United States Court of Appeals
United States Courthouse
Room 5423
Constitution and John Marshall Place N.W.
Washington, D.C. 20001

RE: JULIUS HOBSON vs.
JERRY WILSON,
Appeal No. 82-2159
(and consolidated cases)

Dear Mr. Fisher:

Enclosed please find for filing the original and three copies of the Plaintiffs' Motion to Designate Defendants as Appellants and To Establish a Briefing Schedule.

If there are any questions in regard to this or other matters relating to this appeal, please contact Mary Boresz Pike in New York at 212-227-4530. I will be away from my office for the next few weeks and attorneys Stavis and Scott-McLaughlin are in trial.

Thank you very much.

Sincerely yours,

ANNE PILSBURY
COUNSEL FOR APPELLEES

Enc.

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

JULIUS HOBSON, et al.,
PLAINTIFFS/APPELLEES

vs.

JERRY WILSON, et al.,
DEFENDANTS/APPELLANTS

NO. 82-2159 (and consol-
idated cases nos. 82-2160,
82-2221, 82-2226, and 82-2227)

MOTION BY PLAINTIFFS/APPELLEES TO DESIGNATE
DEFENDANTS AS APPELLANTS AND TO ESTABLISH
A BRIEFING SCHEDULE

The plaintiffs, who appear here as the appellees and cross-appellants, hereby move the Court pursuant to F.R.App. P. 28(h) and Local Rule 8(h) to designate the defendants below (both the District of Columbia defendants and the federal FBI defendants) as the appellants in this Court for purposes of F.R.App.P.28(h), (Briefs in Cases Involving Cross-Appeals); F.R.App.P.34(d), (Argument); and F.R.App.P.31, (Filing and Service of Briefs). The reasons for this motion are set forth in the attached memorandum of points and authorities.

Plaintiffs further move the Court to order that a slightly modified briefing schedule be adopted, viz. that:

1. defendants' briefs will be due 40 days after the record is filed or on March 10, 1983 whichever is later;

2. plaintiffs' brief as cross-appellant and in response to defendants' briefs shall be filed 40 days after service of

defendants' briefs.

3. defendants' reply briefs and responses to the cross-appeal shall be filed 30 days after service of plaintiffs' brief;

4. plaintiffs' reply to the response to their cross-appeal shall be filed 14 days after service of defendants' briefs.

Because at each stage the plaintiffs will be responding to two sets of opposing briefs, one from the FBI defendants and one from the District of Columbia defendants, the plaintiffs further move the Court to allow them to file a single brief at each stage in response or reply but that that one brief may exceed the normal page limits set forth in Local Rule 8(g) by 50%, provided the defendants' briefs are within normal page limits.

ANNE PILSBURY
17 Darforth Street
Norway, Maine 04268
(207) 743-5583

HERB SEMMEL
URBAN LAW INSTITUTE OF THE
ANTIOGH SCHOOL OF LAW
1624 Crescent Pl. N.W.
Washington, D.C. 20009
(202) 265-9500

RANDOLPH SCOTT-MCLAUGHLIN

MORT STAVIS
CENTER FOR CONSTITUTIONAL
RIGHTS
853 Broadway
New York, New York 10003
(212) 674-3303

Mary Boresz Pike
MARY BORESZ PIKE
SOMERSTEIN & PIKE
233 Broadway
Suite 670
New York, New York 10279
(212) 227-4530

OF COUNSEL:

ARTHUR SPITZER
A.C.L.U. Fund for the
National Capitol Area
600 Pennsylvania Ave. S.E.
Washington, D.C. 20003

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE MAILED THIS 31st DAY OF DECEMBER, 1982, a copy of the foregoing PLAINTIFFS' MOTION TO DESIGNATE DEFENDANTS AS APPELLANTS AND TO ESTABLISH A BRIEFING SCHEDULE and MEMORANDUM OF POINTS AND AUTHORITIES to Marc Johnston, Esq. and Barbara Herwig, Esq., Department of Justice, Civil Division, 10th & Penna. Ave. N.W., Washington, D.C. 20530 and to Richard Nettler, Esq., Corporation Counsel, 14th & E St. N.W.. Washington, D.C. 20004.

Anne Pillsbury
ANNE PILSBURY

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

JULIUS HOBSON, et al.,
PLAINTIFFS/APPELLEES

vs.

JERRY WILSON, et al.,
DEFENDANTS/APPELLANTS

NO. 82-2159 (and consolidated
cases nos. 82-2160, 82-2221,
82-2226 and 82-2227)

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
OF PLAINTIFFS/APPELLEES' MOTION TO DESIGNATE
DEFENDANTS AS APPELLANTS AND TO ESTABLISH A
BRIEFING SCHEDULE

This case is a complicated civil rights action brought by multiple plaintiffs against multiple defendants, all either local or federal government officials. After a three week trial, the jury returned a verdict of approximately \$700,000 in favor of eight plaintiffs but denied any award to the ninth, the Women Strike for Peace. The Court denied the plaintiffs' prayer for injunctive relief.

The multiple defendants have filed two sets of appeals challenging the jury verdicts against them and the plaintiffs have cross-appealed the denial of injunctive relief as well as the denial of any award to the Women Strike for Peace.

By far the major issue on appeal will be whether the jury verdict can be sustained. This question embraces a number of

subsidiary issues and will occupy the bulk of the parties' attention on appeal. It would, therefore, facilitate understanding of this case if these issues were raised first by the defendants proceeding as appellants. Normally the plaintiffs would be appellants since they have filed a cross-appeal; but the issues in the cross-appeal, while critical, are more discrete and briefly dealt with than those surrounding the jury verdict and therefore the plaintiffs ask that the Court order that defendants proceed first, as appellants. F.R.App.P.28(h).

Similarly the fact that there are two sets of defendants -- the FBI defendants and the District defendants -- suggests that it would be unwieldy for plaintiffs' brief to open the briefing. It would make far more sense for the defendants to proceed first, each set with a single brief, and then the plaintiffs could respond to both at once and thus avoid duplicating arguments. Because under this arrangement the plaintiffs would be dealing with two separate appeals briefs at once, they ask permission to file one brief but exceed the normal page limits by 50%.

The plaintiffs anticipate that there will be both some overlap of arguments between defendants and some arguments that will be unique to one set of defendants. Based on counsels' familiarity with the issues, they believe the order and procedure suggested herein will assist the Court and enable the parties to present their position with a maximum of efficiency.

The slightly enlarged briefing schedule will in no way prolong oral argument due to the fact that the record in the case has not yet been filed. The record below is voluminous, consisting of many volumes of pleadings, over one hundred trial exhibits and a 3000 page trial transcript. The Clerk of the United States District Court has requested counsel to consult and stipulate which parts of the record below are not material to the appeal so that these may be pared out and a somewhat less cumbersome record prepared. This task has only recently been completed and therefore the record will probably not be transmitted to the Court of Appeals for at least two or three weeks.

For all of the reasons set forth above, the plaintiffs respectfully submit that it would be in the interests of the Court as well as all the parties if their motion were granted.

Anne Pilsbury
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17 Danforth Street
Norway, Maine 04268
(207) 743-5583

Herb Semmel (Ar)
HERB SEMMEL
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Randolph Scott McLaughlin (AM)
RANDOLPH SCOTT-MCLAGHEIN

Mort Stavis (AM)
MORT STAVIS

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Mary Boriesz Pike (AM)
MARY BORIESZ PIKE
SOMERSTEIN & PIKE
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New York, New York 10279
(212) 227-4530

OF COUNSEL:

ARTHUR SPITZER
A.C.L.U. Fund for the
National Capitol Area
600 Pennsylvania Ave. S.E.
Washington, D.C. 20003

UNITED STATES COURT OF APPEALS
For The District Of Columbia Circuit

JULIUS HOBSON, et al.

v.

JERRY WILSON, et al.


Appellants.

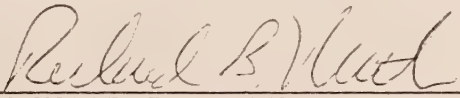
And consolidated case Nos.
82-2160, 82-2221, 82-2226,
82-2227

No. 82-2159

RESPONSE TO MOTION TO DESIGNATE
DEFENDANTS AS APPELLANTS AND TO
ESTABLISH A BRIEFING SCHEDULE

In response to the motion to designate defendants below as appellants in the above-entitled consolidated appeals and to establish a briefing schedule, the District of Columbia states it has no objection to the granting of this motion.



CHARLES L. REISCHEL
Deputy Corporation Counsel, D.C.


RICHARD B. NETTLER,
Assistant Corporation
Counsel, D. C.

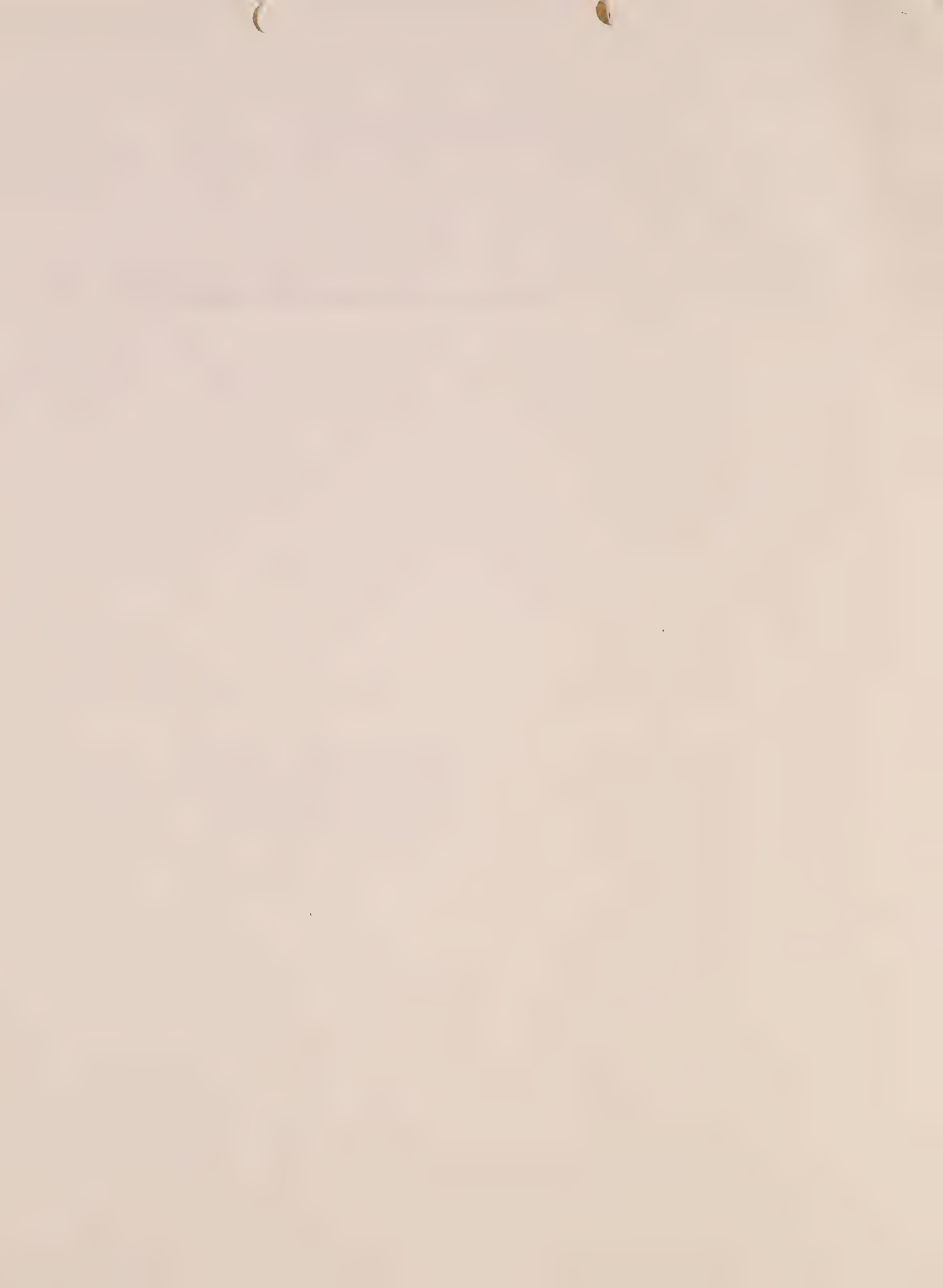
Attorneys for Appellants,
Room 309, District Building
14th & Penn. Ave., N. W.
Washington, D. C. 20004
Telephone: 727-6252

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was mailed, postage prepaid, this 5th day of January 1983, to Anne Pilsbury, 17 Danforth Street, Norway, Main 04268; Herb Semmel, Antioch School of Law for the Urban Law Institute, 1624 Crescent Place, N.W., Washington, D.C. 20009; Randolph Scott-McLaughlin, Center for Constitutional Rights, 853 Broadway, New York, New York 10003; Morton Stavis, Center for Constitutional Rights, 853 Broadway, New York, New York 10003; Somerstein & Pike, 233 Broadway, Suite 670, New York, New York 10279; Barbara L. Herwig, and Marc Johnston, Department of Justice, 10th Street and Constitution Avenue, N.W., Civil Division, Appellate Staff, Washington, D. C. 20530.



RICHARD B. NETTLER,
Assistant Corporation
Counsel, D. C.



United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 81-2159

September Term, 19 82

Julius Hobson, et al.

Civil Action No. 76-01326

v.

Jerry Wilson,
Thomas J. Herlihy,
Jack Acree,
Christopher Scrapper,
Edward Jagen,
John Mahaney
and
George Suter,
Appellants

United States Court of Appeals
for the District of Columbia Circuit

FILED DEC 28 1982

John B. Layton, et al.

GEORGE A. FISHER
CLERK

And consolidated cases

BEFORE: Tamm, Wald and Scalia, Circuit Judges

O R D E R

On consideration of appellants' and appellees' motions for leave to file supplemental memoranda and of appellees' motion to dismiss these appeals as untimely filed, it is

ORDERED by the Court that the motions for leave to file supplemental memoranda are granted and that leave to file the FBI Defendants' Supplemental Opposition to Motion to Dismiss Appeals is granted sua sponte. It is

FURTHER ORDERED by the Court that the motion to dismiss these appeals as untimely filed is denied. Appellants' second motion of August 2, 1982 for new trial or for judgment n.o.v. based on intervening change in law tolled the appeal time under Fed. R. App. P. 4(a)(4), and the notices of appeal filed in these cases were therefore timely.

Per Curiam

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 82-2159, et al.

September Term, 19 82

PAGE 2

FOR THE COURT:

George A. Fisher,
Clerk

BY: *Robert A. Bonner*
Robert A. Bonner
Chief Deputy Clerk

Circuit Judge Wald did not participate in the foregoing order.

SOMERSTEIN & PIKE

ATTORNEYS AT LAW

233 BROADWAY
THE WOOLWORTH BUILDING
NEW YORK, NEW YORK 10279

(212) 227-4530

December 9, 1982

George A. Fisher, Clerk
United States Court of Appeals
United States Courthouse
Room 5423
Constitution Avenue and John Marshall Place, N.W.
Washington, D.C. 20001

Re: Julius Hobson, et al., Appel-
lees, v. Jerry Wilson, et al.,
Appellants, No. 82-2159 and
consolidated cases No. 82-2160,
No. 82-2221, No. 82-2226, and
No. 82-2227

Dear Mr. Fisher:

Enclosed please find the original and three copies of Appellees' Motion for Extension of Time to Reply to Supplemental Response by District of Columbia Appellants to Motion to Dismiss and Reply of Appellees to Supplemental Response by District of Columbia Appellants to Motion to Dismiss. Kindly accept them for filing in the above-referenced matter.

Thank you for your assistance.

Very truly yours,

Mary Boresz Pike
Counsel for Appellees

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

-----X

JULIUS HOBSON, et al., :

Appellees, :

-against- :

No. 82-2159

JERRY WILSON, et al., :

Appellants. :

-----X

And consolidated cases No. 82-
2160, No. 82-2221, No. 82-2226,
and No. 82-2227

APPELLEES' MOTION FOR EXTENSION OF TIME
TO REPLY TO SUPPLEMENTAL RESPONSE
BY DISTRICT OF COLUMBIA APPELLANTS
TO MOTION TO DISMISS

Appellees hereby move this Court to grant them an extension of time within which to file the accompanying Reply to the District of Columbia Appellants' Supplemental Response. Appellees request an extension of time to and including December 9, 1982.

As grounds for their motion, appellees state that although the District of Columbia appellants state December 3, 1982, as the date of service, the envelope in which the Supplemental Response arrived was postmarked December 6, 1982. In any event, it was not received until December 8, 1982, already too late for appellees to have filed a Reply, no matter how expeditiously they responded.

Anne Pilsbury / MBP

ANNE PILSBURY
17 Danforth Street
Norway, Maine 04268
(207) 743-5583

Herb Semmel / MBP

HERB SEMMEL



Antioch School of Law for
the Urban Law Institute
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Morton Stavis / HBP
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(212) 674-3303

Mary Borecz Pike
SOMERSTEIN & PIKE
By: Mary Borecz Pike
233 Broadway
Suite 670
New York, New York 10279
(212) 227-4530

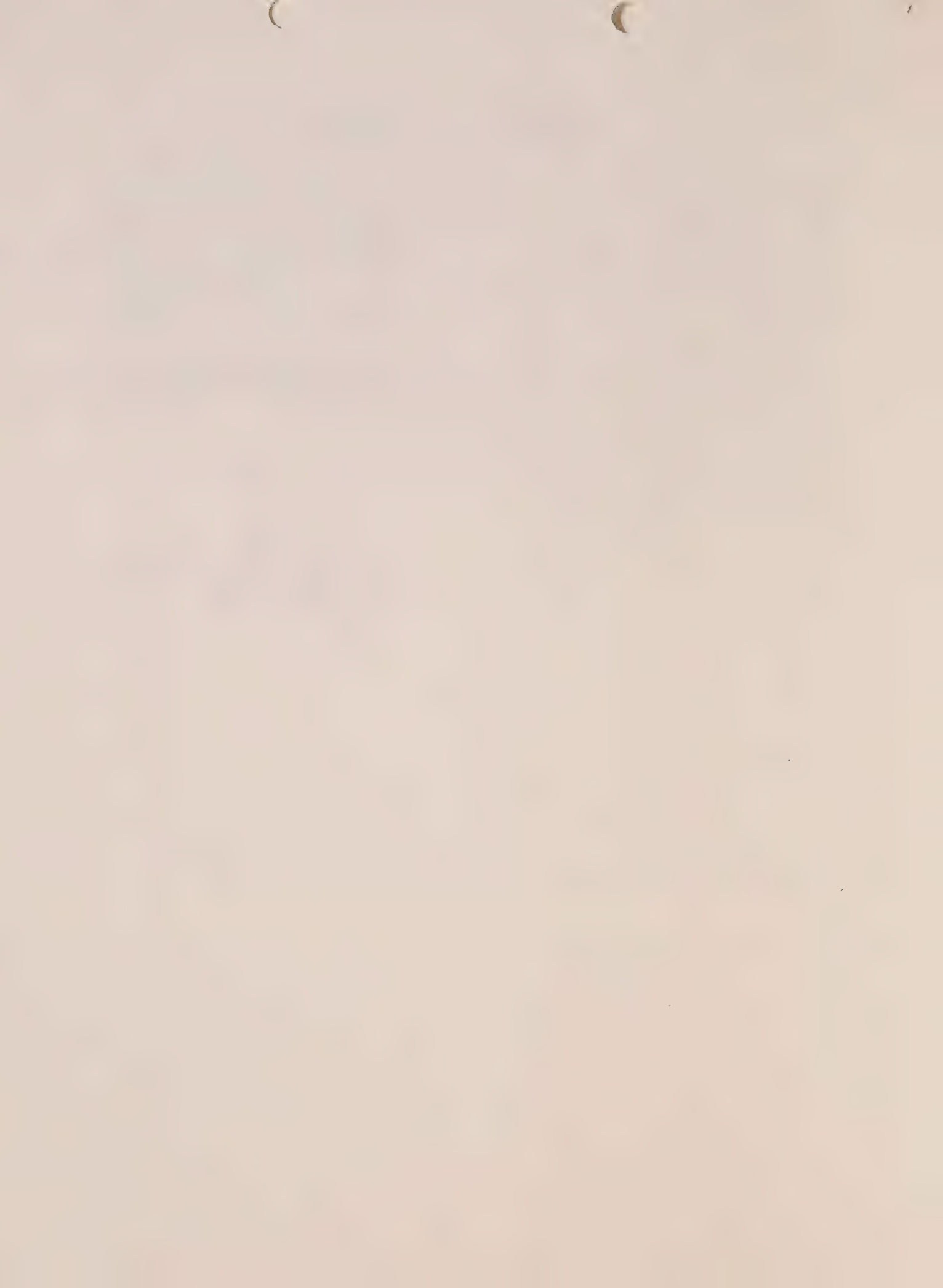
Of Counsel: Arthur Spitzer
ACLU Fund
600 Pennsylvania Avenue, S.E.
Washington, D.C. 20003

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Appellees' Motion for Extension of Time to Reply to Supplemental Response by District of Columbia Appellants to Motion to Dismiss, together with the accompanying Reply of Appellees to Supplemental Response by District of Columbia Appellants to Motion to Dismiss, was mailed this 9th day of December, 1982, to Charles L. Reischel and Richard B. Nettler at Room 309, District Building, 14th and Pennsylvania Avenue, N.W., Washington, D.C. 20004 and to Barbara L. Herwig and Marc Johnston at Department of Justice, Civil Division, Appellate Staff, 10th Street and Constitution Avenue, N.W., Washington, D.C. 20530.



MARY BORESZ PIKE



notice of appeal was filed. The United States Court of Appeals for the Third Circuit accepted jurisdiction of the appeal and reversed the judgment entered on behalf of the petitioners (plaintiffs below). The Court of Appeals acknowledged that the appeal was jurisdictionally defective but explained that it "generally allowed appellant to proceed unless the appellee can show prejudice resulting from the premature filing of the notice." 51 U.S.L.W. 3413.

The Supreme Court vacated the judgment of the Court of Appeals, basing its decision on the well-settled proposition that "the requirement of a timely notice of appeal is 'mandatory and jurisdictional.' *Browder v. Director, Illinois Dept. of Corrections*, 434 U.S. 257, 264 (1978) [and cases cited therein]." 51 U.S.L.W. 3414. The gravamen of the Court's decision is that notices of appeal filed either prior to the filing of a timely Rule 59 motion or during the pendency of a timely Rule 59 motion are without effect.

Briefs submitted herein reveal that the posture of the instant case is procedurally distinct. No party filed a notice of appeal either prior to the timely filing of a Rule 59 motion or during the pendency of a timely-filed Rule 59 motion.

Griggs is not without applicability to appellees' motion, however. The decision is predicated on black-letter and case law that underscore the soundness of appellees' position, i.e., a notice of appeal that is not timely filed confers no jurisdiction on the appellate court, and appellants' notices were not timely filed.

Neither Griggs nor the facts in this case provide any basis for a determination that appellants' notices were timely filed. Appellants' efforts to have them judicially transmuted run squarely against the purpose of Rule 4(a) of the Federal Rules of Civil Procedure: "[i]t is 'to set a definite point of time when litigation shall be at an end[.]' *Matton Steamboat Co. v. Murphy*, 319 U.S. 412, 415 (1943), cited in Browder

v. Director, Illinois Dept. of Corrections, supra, 434 U.S. at 264. Appellees contend that this litigation is at an end and respectfully submit that Griggs prevents any exercise of discretion to circumvent that fact.

Conclusion

Appellees request that the relief prayed for in their motion be granted.

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UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

-----X

JULIUS HOBSON, et al.,

:

Appellees,

:

-against-

:

No. 82-2159

JERRY WILSON, et al.,

:

Appellants.

:

-----X

And consolidated cases No. 82-
2160, No. 82-2221, No. 82-2226,
and No. 82-2227

APPELLEES' MOTION FOR EXTENSION OF TIME
TO REPLY TO SUPPLEMENTAL RESPONSE
BY DISTRICT OF COLUMBIA APPELLANTS
TO MOTION TO DISMISS

Appellees hereby move this Court to grant them an extension of time within which to file the accompanying Reply to the District of Columbia Appellants' Supplemental Response. Appellees request an extension of time to and including December 9, 1982.

As grounds for their motion, appellees state that although the District of Columbia appellants state December 3, 1982, as the date of service, the envelope in which the Supplemental Response arrived was postmarked December 6, 1982. In any event, it was not received until December 8, 1982, already too late for appellees to have filed a Reply, no matter how expeditiously they responded.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Appellees' Motion for Extension of Time to Reply to Supplemental Response by District of Columbia Appellants to Motion to Dismiss, together with the accompanying Reply of Appellees to Supplemental Response by District of Columbia Appellants to Motion to Dismiss, was mailed this 9th day of December, 1982, to Charles L. Reischel and Richard B. Nettler at Room 309, District Building, 14th and Pennsylvania Avenue, N.W., Washington, D.C. 20004 and to Barbara L. Herwig and Marc Johnston at Department of Justice, Civil Division, Appellate Staff, 10th Street and Constitution Avenue, N.W., Washington, D.C. 20530.


MARY BORESZ PIKE

X

.....X

1



notice of appeal was filed. The United States Court of Appeals for the Third Circuit accepted jurisdiction of the appeal and reversed the judgment entered on behalf of the petitioners (plaintiffs below). The Court of Appeals acknowledged that the appeal was jurisdictionally defective but explained that it "generally allowed appellant to proceed unless the appellee can show prejudice resulting from the premature filing of the notice." 51 U.S.L.W. 3413.

The Supreme Court vacated the judgment of the Court of Appeals, basing its decision on the well-settled proposition that "the requirement of a timely notice of appeal is 'mandatory and jurisdictional.' *Browder v. Director, Illinois Dept. of Corrections*, 434 U.S. 257, 264 (1978) [and cases cited therein]." 51 U.S.L.W. 3414. The gravamen of the Court's decision is that notices of appeal filed either prior to the filing of a timely Rule 59 motion or during the pendency of a timely Rule 59 motion are without effect.

Briefs submitted herein reveal that the posture of the instant case is procedurally distinct. No party filed a notice of appeal either prior to the timely filing of a Rule 59 motion or during the pendency of a timely-filed Rule 59 motion.

Griggs is not without applicability to appellees' motion, however. The decision is predicated on black-letter and case law that underscore the soundness of appellees' position, i.e., a notice of appeal that is not timely filed confers no jurisdiction on the appellate court, and appellants' notices were not timely filed.

Neither Griggs nor the facts in this case provide any basis for a determination that appellants' notices were timely filed. Appellants' efforts to have them judicially transmuted run squarely against the purpose of Rule 4(a) of the Federal Rules of Civil Procedure: "[i]t is 'to set a definite point of time when litigation shall be at an end[.]' Matton Steamboat Co. v. Murphy, 319 U.S. 412, 415 (1943), cited in Browder

v. Director, Illinois Dept. of Corrections, supra, 434 U.S. at 264. Appellees contend that this litigation is at an end and respectfully submit that Griggs prevents any exercise of discretion to circumvent that fact.

Conclusion

Appellees request that the relief prayed for in their motion be granted.

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IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

JULIUS HOBSON, et al.,)	
)	
Plaintiffs-Appellees-)	
Cross Appellants,)	
)	
v.	)	No. 82-2159 (and
	)	consolidated cases
JERRY WILSON, et al.,	)	Nos. 82-2160, 82-2221,
	)	82-2226 and 82-2227)
Defendants-Appellants-)	
Cross Appellees.)	
)	

FBI DEFENDANTS' SUPPLEMENTAL OPPOSITION
TO MOTION TO DISMISS APPEALS

This Supplemental Opposition to Motion to Dismiss Appeals is filed to apprise the Court of Griggs v. Provident Consumer Discount Company, S. Ct. No. 82-5082 (November 29, 1982). We submit that the Supreme Court's decision, that a notice of appeal filed while a timely Rule 59 motion is pending is a nullity, mandates the conclusion that the FBI defendants' notice of appeal in this case was timely. A copy of the slip opinion in Griggs is attached.

1. The interaction between Rule 59, F.R.Civ.P., and Rule 4, F.R.App.P., is the subject of the Supreme Court's decision in Griggs. The issue presented in the case was the validity of a notice of appeal filed within 30 days of final judgment but while a timely motion to alter or amend that judgment remained pending in the district court. The Court held that the notice was invalid. The facts in Griggs are as follows:

On December 24, 1980, a non-final judgment was entered against the defendants (503 F.Supp. 927). The defendants' attempt to appeal that "judgment" was dismissed (672 F.2d 903). On November 5, 1981, the district court directed that final judgment be entered pursuant to Rule 54(b), F.R.Civ.P. The defendants then filed a timely Rule 59 motion to alter or amend the judgment. Four days after filing their Rule 59 motion, the defendants filed a notice of appeal. Then, on November 23, 1981, the district court denied the Rule 59 motion.

The Third Circuit accepted jurisdiction of the defendants' appeal, and reversed on the merits. The court of appeals acknowledged the defendants' notice of appeal "fail[ed] to satisfy Rule 4(a)(4)" because the Rule 59 motion pending when the notice was filed made appeal premature (680 F.2d 927, 929 n. 2). The Third Circuit believed, however, that it had jurisdiction because the defendants' noncompliance with Rule 4 had not prejudiced the plaintiffs.

In a per curiam ruling the Supreme Court granted the plaintiffs' petition for certiorari and vacated the Third Circuit's judgment. The Court's ruling was based squarely on the literal language of Rule 4(a)(4): "A notice of appeal filed before the disposition of [a Rule 59 motion] shall have no effect. A new notice of appeal must be filed within the prescribed time measured from the entry of the order disposing of the motion * * *." Thus, the Court rejected the argument that a court of appeals has "discretion * * * to waive the conceded defects in a premature notice of appeal" (slip op. at 5). The Court reasoned

- 3 -

that when a notice of appeal is filed while a timely Rule 59 motion remains pending, "[u]nder the plain language of the current rule, * * * it is as if no notice of appeal were filed at all. And if no notice of appeal is filed at all, the Court of Appeals lacks jurisdiction to act" (ibid.).

Justice Marshall dissented, primarily on the ground that actions the defendants had taken within 30 days after the denial of the Rule 59 motion should be construed as constituting an effective "notice of appeal" under Rule 3, F.R. App. P. Justice Marshall also questioned (dissent at 6) whether the majority's analysis was consistent with the "common-sense meaning" of Rule 2, F.R.App.P. (allowing courts of appeals to suspend the requirement of most of the rules of appellate procedure), and expressed concern (dissent at 7) that the majority's ruling could create "serious pitfalls" for "unsophisticated litigants":

The reports are filled with cases in which litigants filed post-judgment motions to "reconsider," to "vacate," to "set aside," or to "reargue" adverse judgments. The lower courts have almost without exception treated these as Rule 59 motions, regardless of their label. Indeed, even motions captioned under Rule 60(b), but filed within 10 days of judgment, are normally deemed Rule 59 motions. * * * [U]nder the majority's approach, litigants could unwittingly file invalid notices of appeal simply because they had previously filed a motion questioning a District Court judgment which, unbeknownst to them, is a Rule 59 motion. The mere failure to appreciate the distinction between a Rule 59 motion and a Rule 60(b) motion, when combined with the draconian application of Rule 4(a)(4) adopted by the majority, would require the dismissal of an appeal. [emphasis in the original; footnotes omitted]

2. The starting point for both the majority and the dissenting opinions in Griggs is the plain, common-sense meaning of the Rules of Appellate Procedure. Thus, the majority opinion holds that a notice of appeal filed while a timely Rule 59 motion is pending "shall have no effect," and that a new notice of appeal "must be filed" within the time prescribed by Rule 4 after the motion is disposed of, because that is what the plain language of Rule 4(a)(4) says. In addition, the majority opinion stresses that Rule 4 was amended in 1979 "to clarify both the litigants' timetable and the [district and appellate] courts' respective jurisdictions" (slip op. at 3-4 (emphasis added)).

The motion to dismiss the instant appeals urges three conflicting interpretations of the interaction between Rule 59 and Rule 4, all of which are totally at odds with the clear and simple analysis of the relationship between those Rules that is mandated by Griggs:

(a) In the original memorandum of points and authorities filed in support of their motion to dismiss, plaintiffs admitted that the motion filed by the FBI defendants after entry of final judgment was a timely motion under Rules 50 and 59. See Memo. of Points and Authorities in Support of Motion to Dismiss at 6 n. 4. Plaintiffs nonetheless argued that that motion did not affect the time for noticing an appeal from the final judgment because the FBI defendants previously had filed a similar motion.

Rule 4(a)(4) provides that:

If a timely motion under the Federal Rules of Civil Procedure is filed in the district court by any party * * * under

Rule 50(b) * * * [or] under Rule 59 * * * the time for appeal for all parties shall run from the entry of the order * * * granting or denying * * * such motion. [emphasis added]

The plain language of the Rule says nothing that would make some Rule 50/Rule 59 motions less equal than others for purposes of affecting the time for noticing an appeal, or that indicates there is any kind of "one motion" rule. The only criteria imposed by Rule 4(a)(4) is that a motion for judgment notwithstanding verdict (Rule 50(b)), to alter or amend judgment (Rule 59(e)), or for a new trial (Rule 59(a), (b)) be timely -- that is, made within 10 days after entry of judgment.

(b) Plaintiffs' response to the District of Columbia defendants' opposition to the motion to dismiss argues that a Rule 50/Rule 59 motion must be made within 10 days when "judgment" is entered on some of the claims in a multi-claim case, and that a "party that delays [making such a motion] until entry of final judgment * * * does so at his peril" (Appellees' Reply to Opp. of D.C. Appellants at 2). ^{1/}

The decision in Griggs makes it abundantly clear that plaintiffs' suggestion is frivolous. Griggs was a multi-claim case, and the Rule 59 motion that invoked the provisions of Rule 4 in the case was made after entry of the final -- not the interlocutory -- judgment.

^{1/} It is not clear whether plaintiffs mean to argue that a motion made within 10 days of final judgment is not a Rule 50/Rule 59 motion at all, or simply that it is not the kind of Rule 50/Rule 59 motion during the pendency of which Rule 4 tolls the time for noticing an appeal.

(c) Plaintiffs' response to the District of Columbia defendants' opposition to the motion to dismiss also appears to suggest that the motion filed by the FBI defendants after entry of final judgment was untimely because it was filed more than 10 days after the denial of the defendants' earlier Rule 50/Rule 59 motion. See Appellees' Reply to Opp. of D.C. Appellants at 4. Plaintiffs make this extraordinary suggestion in an attempt to distinguish Wansor v. George Hantscho Company, 570 F.2d 1202 (5th Cir. 1978), a case cited by the FBI defendants in opposition to the motion to dismiss.

In Wansor a timely motion was filed for a new trial or judgment NOV. A motion to reconsider was made within 10 days of the order denying the original motion, but a notice of appeal was not filed within thirty days of the order. The Fifth Circuit held that the motion to reconsider did not toll the time for filing a notice of appeal -- not because it sought "reconsideration" but because it was not made within 10 days of judgment. See 570 F.2d at 1206 n. 5.

Plaintiffs interpret the order in Wansor denying the timely Rule 50/Rule 59 motion as "causing final judgment to be entered," however, thereby making nonsense out of the Fifth Circuit's lucid analysis. If plaintiffs were correct in asserting that "judgment" is entered when a Rule 50/Rule 59 motion is denied, then the second motion in Wansor would have been a timely motion that tolled appeal time pursuant to Rule 4(a)(4), and a party would be

able indefinitely to extend the time for taking an appeal by filing repeated motions for reconsideration. ^{2/}

Again, the plain language of Rule 4(a)(4) precludes plaintiffs' interpretation. The Rule does not purport to define, or redefine, the date of a judgment. Instead, it simply makes an exception to the general proposition that the time for taking an appeal runs from the date of judgment -- viz., where a timely Rule 50/Rule 59 motion has been filed, "the time for appeal for all parties shall run from the entry of the order * * * granting or denying * * * such motion."

3. The various conflicting theories advanced by plaintiffs concerning the interaction between Rule 4 and Rule 50/Rule 59 vividly illustrate how irreconcilable plaintiffs' position is with the literal and common-sense approach of the Court in Griggs. Plaintiffs' attempt to read limitations and effects into Rule 4 that its plain language does not suggest make a mockery of the Court's observation that the 1979 amendments to the Rule were intended "to clarify both the litigants' timetable and the [district and appellate] courts' respective jurisdictions" (slip op. at 3-4). ^{3/}

^{2/} Such a fallacious interpretation of the rules is precisely what Moore's means to rebut when it states that only an "original" Rule 50/Rule 59 motion tolls appeal time. See 9 Moore's Federal Practice, ¶204.12[1], p. 4-67 and n. 27 (2d ed., 1982).

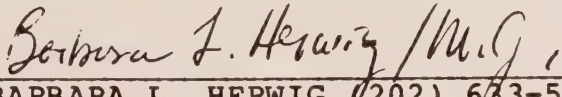
^{3/} Under plaintiffs' reading of Rule 4, it is possible that a litigant would have to file a notice of appeal even though a timely Rule 50/Rule 59 motion remained pending before the district court. The majority opinion in Griggs points out that the 1979 amendments to Rule 4 expressly sought to eliminate such an undesirable and confusing possibility. See slip op. at 4.

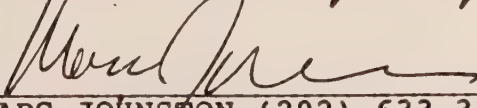


Justice Marshall's dissent in Griggs is, if anything, even less helpful to plaintiffs. The dissent does not take issue with the majority's plain meaning analysis of Rule 4, but instead relies on an equally literal analysis of Rules 2 and 3. Justice Marshall emphasizes that the rules eschew "formalistic rigorism" and "mere technicalities" (dissent at 4, 6), and would have found means for preserving the appeal in Griggs through the liberal provisions of Rules 2 and 3. Most important of all, the answer to Justice Marshall's concern (dissent at 7) that "serious pitfalls" not be created by inscrutable distinctions between those motions that do trigger Rule 4(a)(4) and those that do not is that any motion filed within 10 days of final judgment that calls the correctness of the judgment into question is a motion that tolls appeal time under Rule 4(a)(4).

Accordingly, for the foregoing reasons and those stated in the FBI defendants' initial Opposition to Motion to Dismiss Appeals, the plaintiffs' motion to dismiss the appeals should be denied.

Respectfully submitted,


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IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

JULIUS HOBSON, et al.,)	
)	
Plaintiffs-Appellees-)	
Cross Appellants,)	
)	
v.	)	No. 82-2159 (and
	)	consolidated cases
JERRY WILSON, et al.,	)	Nos. 82-2160, 82-2221,
	)	82-2226 and 82-2227)
Defendants-Appellants-)	
Cross Appellees.)	
)	

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of December 1982, I served a copy of the FBI Defendants Supplemental Opposition to Motion to Dismiss Appeals upon counsel for the other parties to this case by causing it to be mailed, postage prepaid, to:

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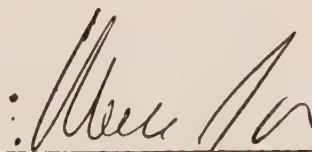
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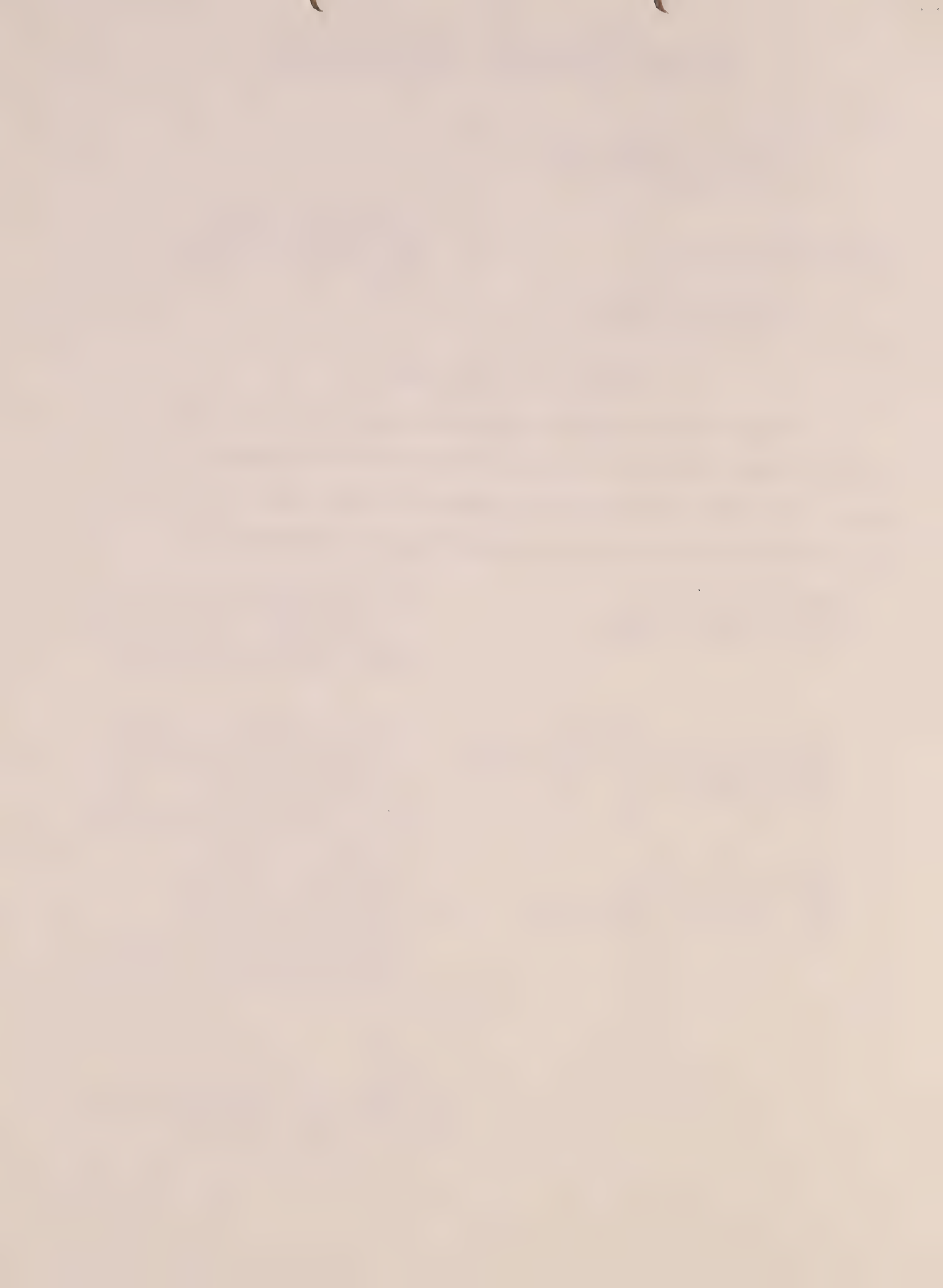
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MARC JOHNSTON, Attorney



UNITED STATES COURT OF APPEALS
For The District Of Columbia Circuit

JULIUS HOBSON, et al.

v.

JERRY WILSON, et al.


Appellants.

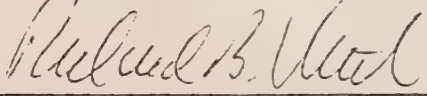
And consolidated case Nos.
82-2160, 82-2221, 82-2226,
82-2227

No. 82-2159

MOTION BY DISTRICT OF COLUMBIA APPELLANTS
FOR LEAVE TO FILE SUPPLEMENT TO OPPOSITION
TO MOTION TO DISMISS APPEAL

On November 29, 1982, the Supreme Court in Griggs et al. v. Provident Consumer Discount Company, 51 U.S. L.W. 3413 (November 30, 1982) (No. 82-5082) discussed the relationship between Rule 4(a)(4) of the Federal Rules of Appellate Procedure and Rule 59 of the Federal Rules of Civil Procedure. We believe that that discussion is relevant to this Court's consideration of appellees' motion to dismiss. Accordingly, we appellants in U.S. App. No. 82-2159 seek leave of the Court to file the accompanying memorandum.


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was mailed, postage prepaid, this 3rd day of December 1982, to Anne Pilsbury, 17 Danforth Street, Norway, Maine 04268; Herb Semmel, Antioch School of Law for the Urban Law Institute, 1624 Crescent Place, N.W., Washington, D.C. 20009; Randolph Scott-McLaughlin, Center for Constitutional Rights, 853 Broadway, New York, New York 10003; Morton Stavis, Center for Constitutional Rights, 853 Broadway, New York, New York 10003; Somerstein & Pike, 233 Broadway, Suite 670, New York, New York 10279; Barbara L. Herwig, and March Johnston, Department of Justice, 10th Street and Constitution Avenue, N.W., Civil Division, Appellate Staff, Washington, D.C. 20530.



RICHARD B. NETTLER,
Assistant Corporation Counsel, D.C.

UNITED STATES COURT OF APPEALS
For The District Of Columbia Circuit

JULIUS HOBSON, et al.

v.

No. 82-2159

JERRY WILSON, et al.

Appellants

And consolidated case Nos.
82-2160, 82-2221, 82-2226,
82-2227

SUPPLEMENTAL RESPONSE BY DISTRICT OF COLUMBIA APPELLANTS
TO MOTION TO DISMISS

The District of Columbia appellants' opposition to the motion to dismiss these appeals argued that under the plain words of Rule 4 of the Federal Rules of Appellate Procedure no appeal could be filed in these cases until the district court had disposed of the federal appellants' post-judgment Rule 59(a) (F.R. Civ. P.) motion. This is so notwithstanding the fact that a motion for judgment n.o.v./ new trial had been filed, on other grounds, and disposed of several months before final judgment.

On November 29, 1982, in Griggs et al. v. Provident Consumers Discount Company, 51 U.S. L.W. 3413 (November 30, 1982) the Supreme Court held that if, a timely Rule 59 motion is filed within ten days from entry of final judgment a notice of appeal filed at any time before disposition of the motion by the district court is "a nullity." In so holding, the Court stated that unnecessary appellate review is prevented since "the district court has before

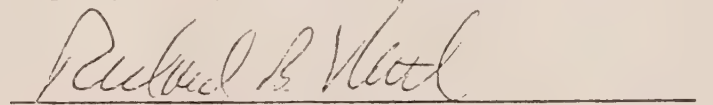
it a motion the granting of which would vacate or alter the judgement appealed from". Id. at 3414, n.2 quoting the Advisory Committee on Appellate Rules.

The strict construction given Rule 4(a), F.R.A.P., by the Supreme Court applies here. Had appellants filed a notice of appeal after final judgment on July 22, 1982, but prior to the filing of the federal appellants' Rule 59 motion or during pendency of the district court's consideration, the appeal would have "self-destructed". Id. at 3414.

While the logic of the Court's holding suggests that any number of post-judgment motions destroy finality so long as they have been served within 10 days of the entry of final judgment, these appeals present a more limited issue. Here, the Rule 59 motion filed by the federal appellants on August 2, 1982, raised an argument, not previously presented by defendants, based on intervening case-law. Because this was not a mere reconsideration of the pre-judgment motion for new trial, it tolled the time within which an appeal could be noted by any defendant.

The motion to dismiss should be denied.

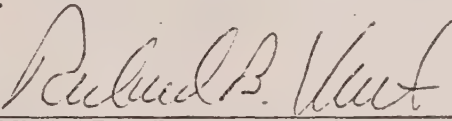

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CERTIFICATE OF SERVICE

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RICHARD B. NETTLER,
Assistant Corporation Counsel, D.C.

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 82-2159

September Term, 1982

Julius Hobson, et al.

Civil Action No. 76-01326

v.

Jerry Wilson,
Thomas J. Herlihy,
Jack Acree,
Christopher Scrapper,
Edward Jagen
John Mahaney &
George Sutter,
Appellants

United States Court of Appeals
for the District of Columbia Circuit

FILED NOV 22 1982

GEORGE A. FISHER
CLERK

John B. Layton, et al.

And consolidated case No. 82-2160

O R D E R

On consideration of appellees' motion for extension
of time to file reply to opposition to the motion to dismiss,
it is

ORDERED that the aforesaid motion is granted and the
Clerk is directed to file the lodged reply.

FOR THE COURT:

George A. Fisher,
Clerk

Robert A. Bonner
BY:

Robert A. Bonner
Chief Deputy Clerk

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JULIUS HOBSON, et al.,
Plaintiffs

v.


JERRY WILSON, et al.,
Defendants

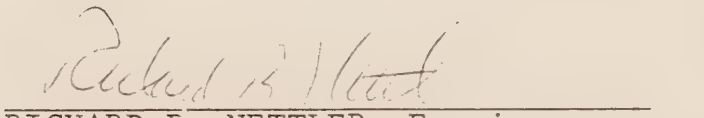
Civil Action No. 76-1326

STIPULATION

Pursuant to Rule 11(f) of the Federal Rules of Appellate Procedure, it is hereby stipulated by counsel for the plaintiffs and counsel for the defendants that the record on appeal shall include all jacket entries that are listed on the docket and are presently part of the record in the District Court, except those entries which have their filing date underlined in red in the docket attached hereto, as well as all exhibits admitted into evidence at trial. Those exhibits will be returned to the District Court under separate cover.

It is hereby also stipulated that all exhibits admitted into evidence on behalf of the plaintiffs shall be retained by counsel for the plaintiffs until plaintiffs' brief on appeal is filed with the United States Court of Appeals. At that time counsel for the plaintiffs will file plaintiffs' exhibits with the District Court so that they may be transmitted to the Court of Appeals as a supplemental record.


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Washington, D.C. 20530

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Stipulation was mailed, postage prepaid, to Herb Semmel, Esquire, Antioch School of Law for the Urban Law Institute, 1624 Crescent Place, N.W., Washington, D.C. 20009; to Randolph Scott-McLaughlin, Esquire, Center for Constitutional Rights, 853 Broadway, New York, New York, 10003; to Morton Stavis, Esquire, Center for Constitutional Rights, 853 Broadway, New York, New York, 10003; and to Mary Boresz Pike, Esquire, 233 Broadway, Suite 670, New York, New York 10279, this 23rd. day of December, 1982.

Richard B. Nettler

RICHARD B. NETTLER
Assistant Corporation Counsel, D.C.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 82-2159

September Term, 19 82
Civil Action No. 76-01326

Julius Hobson, et al.

v.

Jerry Wilson,
Thomas J. Herlihy,
Jack Acree,
Christopher Scrapper,
Edward Jagan,
John Mahaney &
George Suter,

Appellants

John B. Layton, et al.

United States Court of Appeals
for the District of Columbia Circuit

FILED NOV 8 1982

GEORGE A. FISHER
CLERK

AND CONSOLIDATED CASE NO. 82-2160

ORDER

On consideration of the request for expeditious consideration of the motion to dismiss appeals, it is

ORDERED that the time for filing appellants' brief is extended for a period of 20 days after disposition of the motion to dismiss.

For The Court

GEORGE A. FISHER, CLERK

By: *Robert A. Bonner*
Robert A. Bonner
Chief Deputy Clerk

SOMERSTEIN & PIKE

ATTORNEYS AT LAW

233 BROADWAY
THE WOOLWORTH BUILDING
NEW YORK, NEW YORK 10279

(212) 227-4530

October 27, 1982

Mr. George A. Fisher, Clerk
United States Court of Appeals
United States Courthouse
Room 5423
Constitution Avenue and John Marshall Place, N.W.
Washington, D.C. 20001

Re: Jerry Wilson, et al., Appellants,
v. Julius Hobson, et al., Appellees
D.C. Cir. Nos. 82-2159 and 82-2160
(consolidated).

Dear Mr. Fisher:

Enclosed please find the original and three copies of a supplemental Certificate of Service, responsive to the Notices of Appearance received yesterday from Barbara L. Herwig, Esq., and Marc Johnston, Esq. Kindly accept the documents for filing.

Very truly yours,

MBP:rg
Enc.: (4)

MARY BORESZ PIKE

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

-----X

JERRY WILSON, et al.,

:

Appellants,

:

-against-

No. 82-2159 and No. 82-2160

JULIUS HOBSON, et al.,

:

Appellees.

:

-----X

SUPPLEMENTAL CERTIFICATE OF SERVICE

I hereby certify that a copy of Appellees' Motion to Dismiss, together with the Memorandum of Points and Authorities in support thereof, was mailed October 26, 1982, to Barbara L. Herwig and Marc Johnston at Department of Justice, Civil Division, Appellate Staff, 10th Street and Constitution Avenue, N.W., Washington, D.C. 20530.

MARY BORESZ PIKE

Dated: October 27, 1982

New York, New York



UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

JULIUS HOBSON, et al.,)	
)	
Plaintiffs-Appellees,)	
)	
v.	)	Nos. 82-2159 and
	)	82-2160
JERRY WILSON, et al.,)	
)	
Defendants-Appellants)	
_____)	

PLAINTIFFS' REPLY TO FBI DEFENDANTS'
OPPOSITION TO MOTION TO DISMISS APPEALS

On October 24, 1982 the plaintiff-appellees filed a motion to dismiss the appeals filed by both the federal FBI defendants and the District of Columbia defendants as untimely under Fed.R.App.P.4(a)(1); on November 3, 1982 the FBI defendants served their opposition thereto. This reply memorandum addresses only that opposition since no memorandum in opposition to the motion has yet been received from the District of Columbia defendants.

The FBI defendants do not address the merits of the motion to dismiss until page eight of their memorandum in opposition. On that page they list an impressive number of cases in support of their position that their second post-verdict motion tolled the time for noting an appeal. The problem with the defendants' position is that only one of the cases they cite involved a second motion for judgment n.o.v or for a new trial. In all the other cases, the issue was whether the first such motion tolled the time for noting an

appeal and of course the courts held that it did. The only case defendants cite which comes close to the question now before the Court -- whether a second Rule 50 or Rule 59 motion tolls the time under Fed.R.App.P.4 -- is Terrasi v. South Atlantic Lines, Inc., 226 F.2d 823 (2nd Cir. 1955) but it can be distinguished on its unique facts which apparently compelled the Second Circuit to blink at a one day delay.

Anderson v. Continental Steamship Company, 218 F.2d 84 (2nd. Cir. 1954), also relied upon by defendants, is not authoritative because the post-verdict motion in that case was for a new trial based on newly discovered evidence. Clearly a motion asserting new evidence, made within ten days of judgment, should toll the time for an appeal even where an earlier routine motion for a new trial or judgment n.o.v. was made and denied. This differs markedly from the present case where the second post-verdict motion simply again attacks the verdict on a legal ground, albeit a new one than raised in the earlier but identical motion (i.e. both were Rule 50/59 motions). In such cases, the second motion does not toll the time for an appeal. E.E.O.C. v Central Motor Lines, 537 F.2d 1162 (4th Cir. 1976).

Those portions of Moore's Federal Practice, 6A Moore's Fed. Prac. ¶159.13[1]-[3], which the defendants claim upholds their position do not address the number of post-trial motions that can be filed and still toll the time for an appeal but are concerned exclusively with the type of such motions which will toll the time. Although there are many such types of motions, it does not follow that a limitless number can be filed in any one case or

at least not and each have the effect of tolling the time for an appeal.

Conclusion

Plaintiff-appellees urge the Court to continue the rule set out in American Security Bank, N.A. v. John Y. Harrison Realty, Inc., 670 F.2d 317 (D.C. Cir. 1982) and to dismiss the appeals.

Of Counsel:
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New York, New York 10279
(212) 22704530


COUNSEL FOR APPELLEES

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a copy of the foregoing
Plaintiffs' Reply to FBI Defendants' Opposition to Motion to Dismiss
Appeal this 8th day of November, 1982 to:

Barbara L. Herwig
Marc Johnston
Department of Justice
Civil Division/ Appellate Staff
10th & Constitution Ave., N.W.
Washington, D.C. 20530

Judith Rogers
Charles L. Reischel
Richard B. Nettler
District Building
14th & E. St. N.W.
Washington, D.C. 20004


ANNE PILSBURY



REK:MJohnston:bet

TELEPHONE:
(202) 633-3305

Washington, D.C. 20530

November 2, 1982

Mr. George A. Fisher
Clerk, U.S. Court of Appeals
for the D.C. Circuit
3rd & Constitution Ave., N.W.
Room 5423
Washington, D.C. 20001

Re: Julius Hobson, et al. v. Jerry Wilson, et al.
(D.C. Cir. No. 82-2221; see also D.C. Cir.
Nos. 82-2159 and 82-2160)

Dear Mr. Fisher:

We have enclosed for filing an appearance form for Ms. Barbara L. Herwig and Mr. Marc Johnston of this office, who have been assigned the prosecution of the above-captioned appeal on behalf of the federal appellants. Ms. Herwig and Mr. Johnston already have submitted appearance forms for the related appeals Nos. 82-2159 and 82-2160. Please send copies of all communications pertaining to this appeal directly to Ms. Herwig and Mr. Johnston.

We are sending copies of the appearance form and this letter to counsel for appellees so that they may serve copies of all briefs and other papers relating to this appeal directly upon Ms. Herwig and Mr. Johnston.

Sincerely,

MARC JOHNSTON
Attorney, Appellate Staff
Civil Division

Enclosure

United States Court of Appeals
for the District of Columbia Circuit

ENTRY OF APPEARANCE

32-2221

No. _____

CAPTION

Julius Hobson, et al

v.

Jerry Wilson, et al.

PARTY

The Clerk will enter my appearance as counsel for:

☒ Appellant(s) Charles D. Brennan, George C. Moore, Courtland J. Jones,
☐ Petitioner(s) Gerould W. Pangburn, Gerald T. Grimaldi */
Name of Party

☐ Appellee(s)
☐ Respondent(s) _____
Name of Party

☐ Intervenor(s) _____
Name of Party

☐ Amicus Curiae _____
Name of Party

ATTORNEY

Name Barbara L. Herwig Phone 202-633-5425
Ms. Barbara L. Herwig

Name Marc Johnston Phone 202-633-3305
Mr. Marc Johnston

Name _____ Phone _____

Firm Department of Justice, Civil Division, Appellate Staff

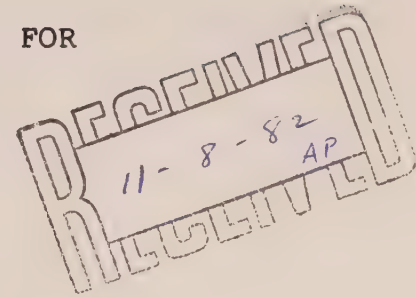
Address 10th Street & Constitution Avenue, NW

Washington, D.C. Zip Code 20530

NOTE: Must be SUBMITTED by a member of the Bar of the United States Court of Appeals
for the District of Columbia Circuit.

*/ Appellants in related appeal No. 82-2160.

IN THE UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA CIRCUIT



JULIUS HOBSON, et al.,)
)
Plaintiffs-Appellees,)
)
v.) Nos. 82-2159 and
) 82-2160 1/
JERRY WILSON, et al.,)
)
Defendants-Appellants.)
)

FBI DEFENDANTS' OPPOSITION
TO MOTION TO DISMISS APPEALS

The FBI defendants are four former, and one current, members of the Federal Bureau of Investigation. 2/ Although we shall refer to these individuals collectively, the instant appeal challenges a judgment that holds each of the five FBI defendants personally liable for significant money damages.

Plaintiffs have moved to dismiss the FBI defendants' appeal on the ground that the appeal was not timely. They argue that a post-judgment motion, filed and served within ten days of entry of final judgment and calling into question the correctness of the judgment in light of the Supreme Court decision in Harlow v. Fitzgerald, _____ U.S. _____ (No. 80-945, June 24, 1982), did not

1/ A third notice of appeal from the final judgment of the district court has been docketed as No. 82-2221. Consolidation of Nos. 82-2159 and 82-2160 with No. 82-2221 is appropriate.

2/ Charles D. Brennan was a section chief, and later assistant director, in the FBI's Domestic Intelligence Division. George C. Moore was a section chief in the same division. Courtland J. Jones held the post of Security Coordinating Supervisor in the FBI's Washington field office. Gerould W. Pangburn and Gerald T. Grimaldi were special agents assigned to the Washington field office. Only Mr. Pangburn is still employed by the FBI.

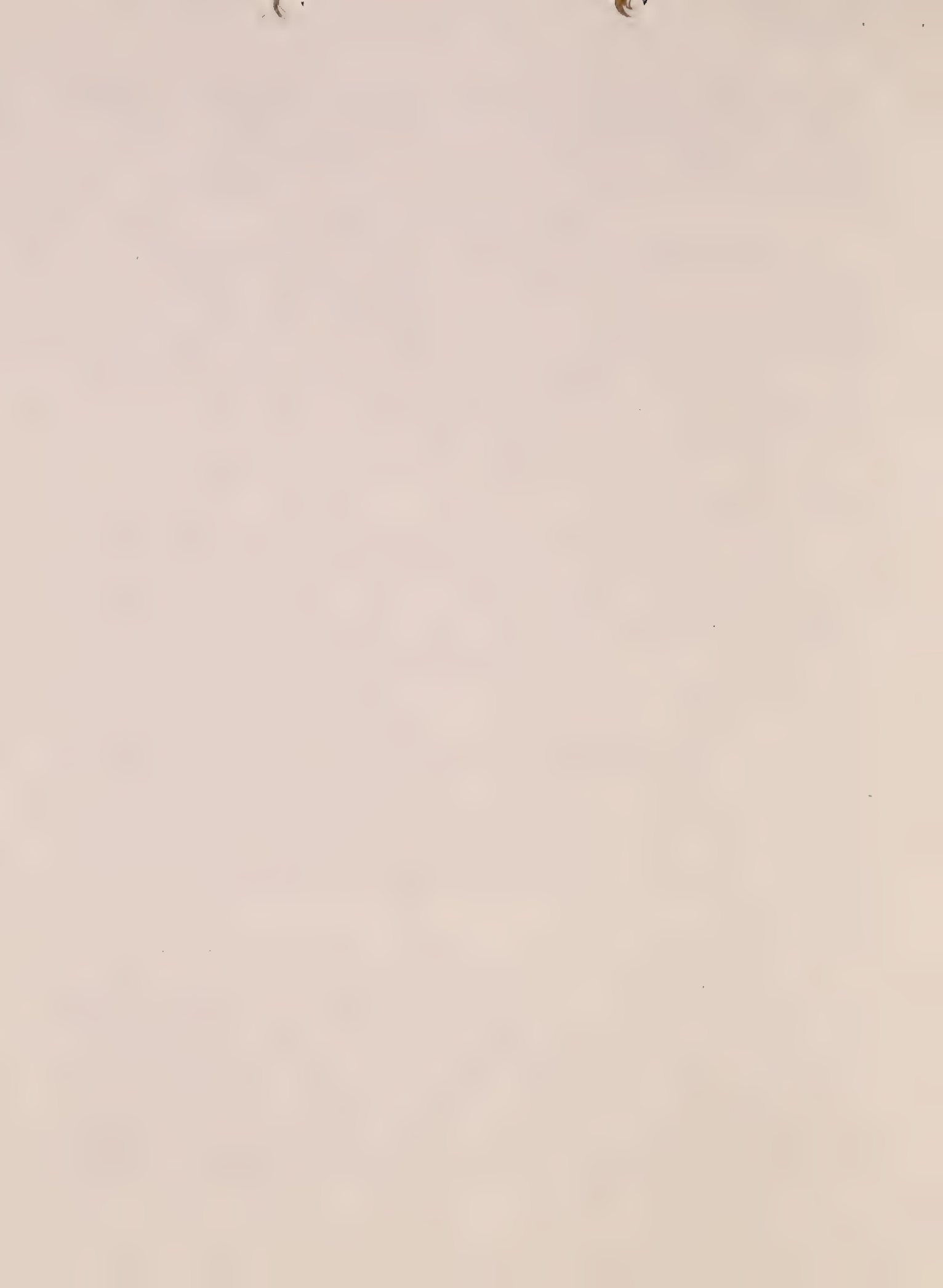
toll the time for taking an appeal. Because plaintiffs' argument is plainly inconsistent with Rule 4(a)(4), F.R. App. P., the motion to dismiss lacks any merit and should be denied.

Statement of the Case

1. The instant case largely arises out of the FBI's COINTELPRO operation of the late 1960s and early 1970s. Plaintiffs were members and supporters of various New Left and Black groups. They claim those groups were targets of unlawful COINTELPRO actions. Plaintiffs further claim that they were injured in the exercise of their First Amendment rights as a result of COINTELPRO.

In the instant action, filed on July 16, 1976, plaintiffs sought damages from numerous named members of the FBI and of the District of Columbia's Metropolitan Police Department as defendants in their individual capacities. Injunctive relief also was sought. Prior to trial, claims against most of the originally named defendants were dismissed. Both at trial and on appeal, the status of the District of Columbia defendants is distinct from that of the FBI defendants, and the FBI defendants and the District of Columbia defendants are separately represented.

A jury trial took place in November and December of 1981. On December 23, 1981, the jury returned special verdicts finding, inter alia, the five FBI defendants liable to eight plaintiffs for compensatory and punitive damages. Each of the eight plaintiffs was found entitled to \$9375 in damages from defendant Brennan, \$7500 in damages from defendant Moore, \$5625 in damages



from defendant Jones, \$4687.50 in damages from defendant Grimaldi, and \$5625 in damages from defendant Pangburn. Judgments immediately were entered on the verdicts. The judgments were not final or appealable, however, because plaintiffs' claim for injunctive relief against the Director of the FBI remained pending and no Rule 54(b), F.R. Civ. P., certification was made.

On January 4, 1982, the FBI defendants filed and served a motion for judgment notwithstanding the verdicts, or for a new trial. All of the FBI defendants sought judgment NOV on the grounds (1) plaintiffs had failed to present sufficient evidence to support a reasonable conclusion that the FBI defendants personally had committed acts that injured plaintiffs; (2) plaintiffs had failed to present sufficient evidence to support a reasonable conclusion that the FBI defendants had participated in a conspiracy that violated plaintiffs' rights; and (3) plaintiffs had failed to present sufficient evidence to support a reasonable conclusion that the statute of limitations should be tolled because of fraudulent concealment. Defendant Jones also sought judgment NOV on the ground of plaintiffs' belated service upon him of a summons and complaint.

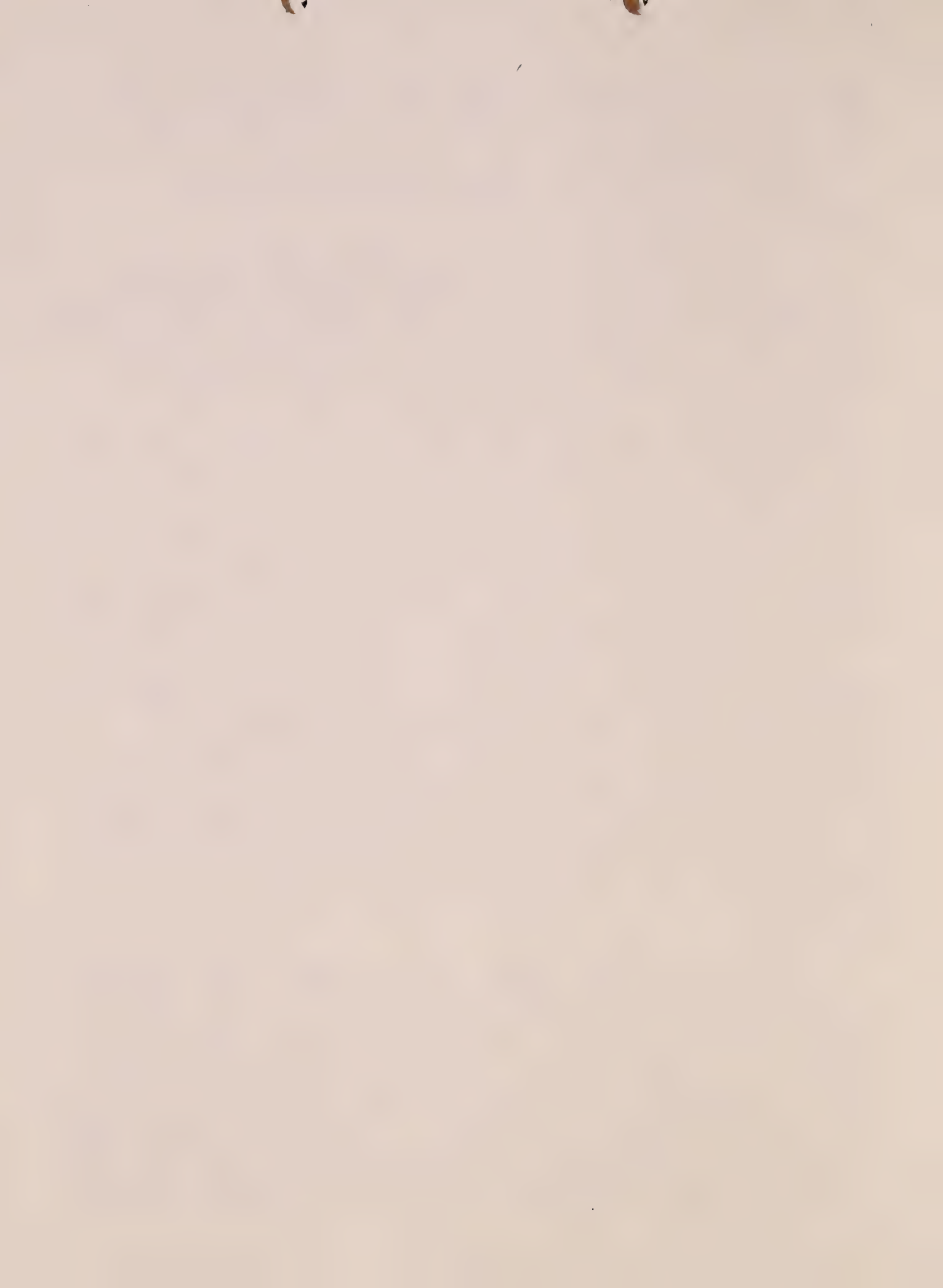
The FBI defendants alternatively moved for a new trial on the grounds (1) the verdicts are against the weight of the evidence; (2) the verdicts are excessive; (3) immaterial and prejudicial matters were allowed into evidence; (4) various jury instructions were erroneous or inadequate; (5) one of plaintiffs' counsel improperly had discussed the case with a discharged juror

while the trial was still pending; and (6) the special verdict form had been prejudicial.

On June 1, 1982, the district court denied the FBI defendants' motion.

2. On June 24, 1982, the Supreme Court decided Harlow v. Fitzgerald (No. 80-945). That decision works a sea change in the law of qualified immunity by "defining the limits of qualified immunity essentially in objective terms" (slip op. at 18). Harlow holds that qualified immunity shields government officials from liability "insofar as their conduct does not violate clearly established statutory or constitutional rights" (slip op. at 17). Under Harlow, the trial judge is made responsible for deciding "not only the currently applicable law, but whether that law was clearly established at the time an action occurred" (ibid.). If the judge determines that the law was not "clearly established" at the time an unlawful action occurred, then qualified immunity attaches to the action because "an official could not reasonably be expected to anticipate subsequent legal developments, nor could he fairly be said to 'know' that the law forbade conduct not previously identified as unlawful" (slip op. at 17-18).

For purposes of the instant case, the significance of Harlow is readily apparent upon examining the jury instructions given on immunity by the court below. See Transcript (December 17, 1981), vol. V, pp. 255-260. To be brief, the district court instructed the jury to decide the immunity issue by determining whether each defendant "reasonably believed in good faith that [his] conduct



* * * was not of the sort that would violate [a] plaintiff's right to assemble or associate, or * * * was justified as a lawful exercise of his law enforcement responsibilities" (id., at 260).

3. On July 22, 1982, the district court denied plaintiffs' demand for injunctive relief, and ordered the Clerk of the Court to enter final judgment in this case.

The FBI defendants thereupon filed and served a timely motion under Rules 50(b) and 59, F. R. Civ. P., to set aside the judgment against them and have judgment entered in their favor, or for a new trial. The motion was based upon the change in law resulting from Harlow v. Fitzgerald, and urged that the unlawfulness of the actions for which the FBI defendants have been found liable was not clearly established when those actions occurred. ^{3/} On August 28, 1982, the district court denied the FBI defendants' motion without opinion.

^{3/} For example, plaintiffs presented evidence that the FBI, with the Attorney General's approval, had conducted warrantless electronic surveillances of the Black Panther Party and the Peoples Coalition for Peace and Justice. Those actions occurred before warrantless domestic intelligence electronic surveillance was declared unconstitutional (see United States v. United States District Court, 407 U.S. 297 (1972)), and this Court has held that the unlawfulness of such surveillance was not clearly established prior to that decision. See Sinclair v. Kleindienst, 645 F.2d 1080, 1084-1085 (D.C. Cir. 1981).

Plaintiffs also presented evidence of various FBI actions that even today are not clearly unlawful, such as using informants, maintaining confidential lists of persons suspected of being agitators or security risks, and interviewing people who were under investigation or their associates. For the most part, moreover, the individual FBI defendants had little or no involvement in most of the actions about which plaintiffs presented evidence. Plaintiffs' claims against the FBI

(footnote continued on next page)

Although we believe this case is properly governed by the sixty day appeal period time limit, 4/ out of an abundance of caution a notice of appeal was filed on behalf of the FBI defendants thirty days following the denial of their post-judgment motion. 5/

Argument

Plaintiffs concede that the FBI defendants' post-judgment motion was timely. See Appellees' Memo. at 6 n.4. Plaintiffs further concede that the FBI defendants are entitled to appeal the denial of that motion. See id., at 5. n.2, 6 n.3. Plaintiffs argue, however, that the FBI defendants are foreclosed from appealing the judgment entered against them. Plaintiffs assert that such a foreclosure occurred because the FBI defendants' notice of appeal was not filed within sixty days after entry of the judgment. In spite of the clear and simple

3/ (footnote con't)
defendants almost entirely are based on plaintiffs' theory that, as one of plaintiffs' counsel put it, COINTELPRO was a "large conspiracy, a massive Bivens tort implemented nationwide * * * [by] an entire agency" and thus, "[u]nder the law of civil conspiracy, in theory all the acts of all the agents involved in this program can be laid at the doorstep of FBI headquarters and, in theory, the other agents." Transcript (December 9, 1981), vol. IV, p. 306. Under Harlow, however, a government officer is entitled to be judged on the basis of whether his own actions were clearly established as being unlawful when they occurred. Accordingly, unless it was clearly established that it would be unlawful for a member of the FBI to accept an assignment to COINTELPRO duties per se, plaintiffs' conspiracy theory is untenable.

4/ See Wallace v. Chappell, 637 F.2d 1345 (9th Cir. 1981).

5/ Plaintiffs apparently concede that the time for filing a notice of appeal in this case was sixty days. See Memorandum of Points and Authorities in Support of Appellees' Motion at 5, 10 (hereinafter "Appellees' Memo.").

rule established by Rule 4(a)(4), F.R. App. P., plaintiffs assert that the FBI defendants' time within which to file a notice of appeal was not tolled by their timely post-judgment motion calling into question the correctness of the judgment.

1. The time limits for filing a notice of appeal are governed by Rule 4, F.R. App. P.. Ordinarily, the time for filing a notice runs from the date of entry of an appealable judgment or order. Rule 4(a)(1). If, however, a timely post-judgment motion is filed under Rule 50(b), F.R. Civ. P., or under Rule 59, F.R. Civ. P., then "the time for appeal for all parties shall run from the entry of the order * * * granting or denying any * * * such motion." Rule 4(a)(4).

The motions that Rule 4(a)(4) causes to toll the time for noticing an appeal are motions that call into question the correctness of a judgment by seeking judgment notwithstanding a verdict (Rule 50(b)), a new trial (Rule 59(a)), or alteration of, or amendment to, a judgment (Rule 59(e)). ^{6/} The Advisory Committee Notes to the 1979 Amendments to Rule 4 explain that Rule 4(a)(4) tolls the time for filing a notice of appeal until after disposition of such post-judgment motions because "it would be undesirable to proceed with the appeal while the district court has before it a motion the granting of which would vacate

^{6/} A motion under Rule 52(b), F.R. Civ. P., also tolls the time for filing a notice of appeal pursuant to Rule 4(a)(4), even if the motion does not necessarily call into question the correctness of the judgment. Nonetheless, because a Rule 52(b) motion can affect substantively the issues presented on appeal, Rule 4(a)(4) gives it the same effect as Rule 50(b) and Rule 59 motions. See generally 5A Moore's Federal Practice, ¶52.11[3], pp. 2759-2760 (2d ed., 1981).

or alter the judgment appealed from."

If a post-judgment motion seeks the kind of judgment upsetting relief available under Rule 50(b)/Rule 59, and is made within the time prescribed by Rules 50(b) or 59, then Rule 4(a)(4) mandates that the time for noticing an appeal from the judgment challenged by the motion shall not begun to run until disposition of the motion, however the motion may be styled and whatever the arguments it advances. See Clipper Exxpress v. Rocky Mountain Motor Tariff Bureau, Inc., 674 F.2d 1252, 1260 (9th Cir. 1982); United States Labor Party v. Oremus, 619 F. 2d 683, 687 (7th Cir. 1980); Wansor v. George Hantscho Co., Inc., 570 F.2d 1202, 1206 n.5 (5th Cir. 1978); cert. denied, 439 U.S. 953; Dove v. Codesco, 569 F.2d 807, 809 (4th Cir. 1978); - only one post-jud.m
Sonnenblick-Goldman Corp. v. Nowalk, 420 F.2d 858, 859 (3rd Cir. n/a 1970); Terrasi v. South Atlantic Lines, Inc., 226 F.2d 823, 824-825 (2nd Cir. 1955); Anderson v. Continental Steamship Company, 218 F.2d 84, 86 (2nd Cir. 1954); 9 Moore's Federal Practice, ¶204.12 [1], pp. 4-67 through 4-69 (2d ed., 1982). 7/

The only appealable judgment in the instant case was the final judgment entered on July 22, 1982. Within the time set by

7/ The opinions in Terrasi and Anderson are particularly instructive as they were authored by the late Chief Judge Charles E. Clark, the Reporter for the Supreme Court's Advisory Committee on Federal Civil Procedure from the time of the Committee's inception through 1955.

The Advisory Committee Notes to the 1946 Amendments to Rule 60(b), F.R. Civ. P., also make it clear that whether a post-judgment motion calling into question the correctness of the judgment tolls appeal time turns solely on when the motion is made.

Rules 50(b) and 59, the FBI defendants filed and served a motion to vacate the judgment, asking either that judgment be entered in their favor or that they be given a new trial. Although the FBI defendants' motion plainly called into question the correctness of the judgment against them, plaintiffs label the motion a motion for "reconsideration" and argue that, as such, it did not toll the time for filing an appeal.

2. Plaintiffs advance two, somewhat inconsistent, theories in support of their argument.

a. Plaintiffs' primary emphasis is on the fact that the motion filed by the FBI defendants was the FBI defendants' second Rule 50(b)/Rule 59 motion. Thus, plaintiffs argue, the motion actually sought "reconsideration" of the denial of the FBI defendants' first motion. See Appellees' Memo. at 6-8, 10. This is a plain distortion of the record.

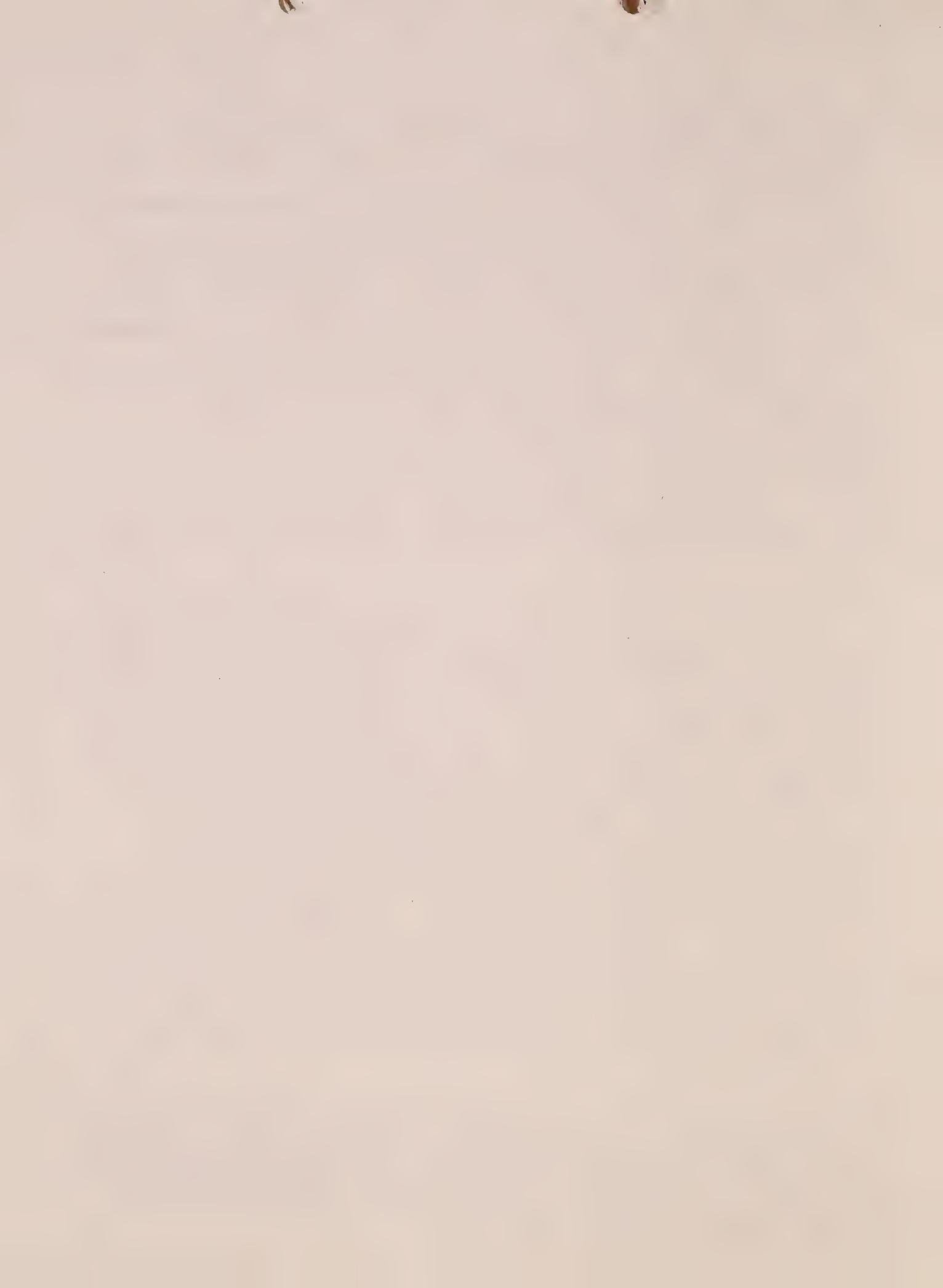
The FBI defendants' second Rule 50(b)/Rule 59 motion was based solely on a Supreme Court decision that had been rendered after the denial of the FBI defendants' first motion. Harlow v. Fitzgerald resulted in a fundamental change in the law of qualified immunity, which change could not have been anticipated by the FBI defendants' first motion. In fact, in their first Rule 50(b)/Rule 59 motion the FBI defendants did not challenge the district court's relegation of the immunity issue to the jury and did not challenge the court's instruction that the immunity issue turned on fact-finding as to the defendants' subjective good faith. Until the decision in Harlow v. Fitzgerald, there was no basis for arguing that the district court had erred in

treating the immunity issue as bound-up in subjective fact-finding. Thus, the only reference to the immunity issue in the FBI defendants' first motion was the argument that the special verdict form used by the jury should have asked specifically whether the jury found the defendants had acted in good faith instead of simply asking the jury to check a box labeled "immune" or "not immune." ^{8/} In contrast, the FBI defendants' second Rule 50(b)/Rule 59 motion argued that, under the rule announced in Harlow v. Fitzgerald, the district court should have ruled as a matter of law that, at the time of the COINTELPRO actions of which plaintiffs complain, it was not "clearly established" that such actions were unlawful.

In sum, it borders on the frivolous for plaintiffs to assert that the FBI defendants' second Rule 50(b)/Rule 59 motion sought "reconsideration" of the denial of their first motion because the second motion plainly raised a legal argument that had not even been available until after the first motion had been denied.

b. Plaintiffs' alternative theory is that the FBI defendants' motion sought "reconsideration" of the district court's July 22, 1982, final judgment. See Appellees' Memo. at 9. If anything, this theory is an even more frivolous basis for plaintiffs' motion to dismiss than their argument that the FBI defendants' second Rule 50(b)/Rule 59 motion was a motion to

^{8/} See district court memorandum opinion filed June 1, 1982, at 33 ("The FBI defendants seek relief on the immunity issue only in their motion for a new trial, in which they suggest that the terms the Court used on the special-verdict form to state the immunity question were 'inadequate.'").



"reconsider" the denial of the FBI defendants' first Rule 50(b)/Rule 59 motion.

The very essence of a Rule 50(b)/Rule 59 motion is "reconsideration." As long as the "reconsideration" sought questions the fundamental correctness of a judgment, and the motion for "reconsideration" is timely made, the time for noticing an appeal is tolled. See authorities cited at p. 8, supra.

Plaintiffs point out that in the memorandum opinion filed with the July 22, 1982, judgment the district court stated that Harlow v. Fitzgerald does not "materially affect the instructions about official immunity which were given to the jury in this case" (at 2 n.2). Plaintiffs then assert that the FBI defendants' motion sought "reconsideration" of that summary ruling. Obviously, plaintiffs' assertion is correct -- the FBI defendants did seek "reconsideration" of the district court's summary dismissal of the significance to this case of Harlow v. Fitzgerald. The district court's ruling concerning the effect of Harlow was made sua sponte by the court. No party had yet raised or briefed the issue. Nonetheless, in literally one sentence in one footnote, the district court shrugged-off Harlow's redefinition of the test for qualified immunity. The district court clearly erred in failing to recognize the significance of Harlow's substitution of an objective test of qualified immunity for the old, fact-bound, subjective test. A Rule 50(b)/Rule 59 motion plainly afforded an appropriate mechanism for bringing that error to the district court's attention.

3. The authorities relied upon by plaintiffs do not support their argument that the FBI defendants' motion failed to toll appeal time.

Thus, plaintiffs quote the statement in Moore's Federal Practice that only an "original" Rule 50(b)/Rule 59 motion tolls appeal time. Apparently, plaintiffs construe Moore's as saying that once a Rule 50(b)/Rule 59 motion has been filed, no later Rule 50(b)/Rule 59 motion can toll appeal time. That is plainly incorrect, however. The passage from Moore's quoted by plaintiffs simply makes the obvious point that when a Rule 50(b)/Rule 59 motion has been filed and denied, a motion to reconsider the denial does not "further extend[]" appeal time. 9 Moore's Federal Practice, ¶204.12[1], p. 6-67 (2d ed., 1982). That kind of motion for "reconsideration" must be deemed "either an untimely renewal of the [original] motion or functionally a motion under Rule 60(b)" because "[a]ny other interpretation theoretically would permit unlimited extension of the time to appeal." Id., at p. 4-67 n.27. Elsewhere, however, Moore's makes it perfectly clear that a timely second motion -- whether it is styled a motion for "reconsideration" or employs the actual language of Rule 50(b) or Rule 59 -- does toll appeal time. See 6A Moore's Federal Practice, ¶¶59.13[1]-[3], pp. 59-256 through 59-260 (2d ed., 1982). Indeed, on the same page as the passage quoted by plaintiffs Moore's states:

"Any motion that draws into question the correctness of the judgment is functionally a motion under Civil Rule 59(e), whatever its label. Thus a motion to 'reconsider', to

'vacate', to 'set aside', or to 'reargue' is a motion under Rule 59(e) and under Rule 4(a)(4) will postpone the time for appeal if the motion was timely made."

9 Moore's Federal Practice, ¶204.12[1], p. 4-67 (2d ed., 1982).

Plaintiffs' reliance on Randolph v. Randolph, 198 F.2d 956 (D.C. Cir. 1952), Yates v. Behrend, 280 F.2d 64 (D.C. Cir. 1960), and Wansor v. George Hantscho Co., Inc., 570 F.2d 1202 (5th Cir. 1978), cert. denied, 439 U.S. 953, is similarly misplaced because the motions for "reconsideration" in those cases were not timely. In all three cases motions were made more than ten days after judgment to reconsider the denial of prior Rule 50(b)/Rule 59 motions. Accordingly, the motions for "reconsideration" were, at best, Rule 60(b) motions. Motions under that Rule do not toll appeal time. See Advisory Committee Notes to 1946 Amendments to Rule 60(b). In fact, in Yates this Court recognized that it would have been faced with a different case if the second motion had been made within ten days of judgment (see 280 F.2d at 66 n.4), and Wansor correctly concludes that, if a motion for "reconsideration" is filed within ten days of judgment, the motion does toll appeal time (see 570 F.2d at 1206 n.5). To this same effect are the cases cited at p. 8, supra.

Plaintiffs' citation of American Security Bank, N.A. v. John Y. Harrison Realty, Inc., 670 F.2d 317 (D.C. Cir. 1982), presents a somewhat different case because there a motion for "reconsideration" of the denial of an earlier Rule 50(b)/Rule 59 motion was made within ten days of judgment. We believe this Court erred in American Security Bank in holding that the motion for "reconsideration" failed to toll the time for appeal, and



urge that the Court repudiate its ruling in an appropriate case. But, that action is not required here because, as we demonstrate infra, this case is plainly distinguishable from American Security Bank.

To elaborate briefly, however, it is very important that the rules governing the time for noticing an appeal be clear and simple. In American Security Bank this Court correctly ruled that whether a post-judgment motion tolls appeal time turns on the "characterization" of the motion (670 F.2d at 320). Rather than limiting that inquiry to whether the motion calls into question the correctness of the judgment and whether the motion was made within ten days of judgment, however, the Court attempted to distinguish between motions that are "identical" (670 F.2d at 321) to earlier motions and those that are not. The Court apparently believed that only a non-identical motion would toll appeal time if made within ten days of judgment. See 670 F.2d at 321-322. That is not the test established by the Rules, however, nor do we know of any authority that would support such a test. The cases we already have cited in this memorandum, Moore's, and the Advisory Committee Notes make it clear that it is the effect a motion seeks to have and the motion's timeliness -- not its label or its grounds -- that determines whether the motion tolls appeal time. Making the tolling of appeal time turn on whether a motion is "identical" to an earlier motion is both inconsistent with the plain purpose of Rule 50(b)/Rule 59 -- which is to allow "reconsideration" -- and results in confusing the clear and simple rule contemplated by Rule 4(a)(4) with

questionable metaphysical distinctions.

But, the instant case does not present an occasion for overruling American Security Bank. Because the FBI defendants' second Rule 50(b)/Rule 59 motion was based on a change in the law that occurred after the denial of their first motion it is patently clear that it was not "identical" to the first motion. The instant case is not one in which there was no "possibility that a new trial [would] be ordered" (670 F.2d at 321) in response to the FBI defendants' second motion because the motion raised a new legal argument that could not previously have been advanced.

Moreover, the fact that the district court already on its own had noticed Harlow v. Fitzgerald and summarily ruled that Harlow does not "materially affect" the judgment in this case is quite irrelevant. The very purpose of Rule 50(b) and Rule 59 is to afford a litigant "reconsideration" of rulings he believes erroneous. Because the district court had not had the benefit of the FBI defendants' arguments concerning the significance of Harlow when it made its summary ruling the FBI defendants' had every reason to make a Rule 50(b)/Rule 59 motion pointing out the effect on this case of the change in law resulting from Harlow.

4. Finally, this Court should note what the consequences would be of adopting plaintiffs' cramped interpretation of Rule 4(a)(4).

We already have mentioned the need for a clear and simple rule governing the tolling of appeal time, and how a rule that

turns on whether a motion can be labeled one for "reconsideration" would be neither clear nor simple. The most likely consequence of the confusion that would be engendered by the interpretation of Rule 4(a)(4) that plaintiffs urge would be to discourage litigants from making more than one Rule 50(b)/Rule 59 motion. In a case like the instant one -- in which further district court proceedings follow entry of a verdict and precede final judgment -- a prudent litigant would have to choose between making a post-verdict Rule 50(b)/Rule 59 motion -- and thus possibly curtailing the need for further district court proceedings -- or postponing his motion until after judgment so that the motion can rely on later changes in the law or newly discovered evidence. Under plaintiffs' theory of Rule 4(a)(4), if a litigant made both a post-verdict and a post-judgment motion -- as the FBI defendants did in the court below -- he would not know whether his appeal time should run from entry of judgment or from disposition of his second motion.

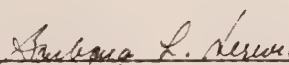
It is important both that litigants not have to choose between making dispositive motions while district court proceedings remain in medias res or saving their motions until after judgment. For example, in Harlow v. Fitzgerald itself the Supreme Court remanded to the district court for further consideration of the qualified immunity issue in light of the Court's ruling. In doing so the Supreme Court stated that "[t]he trial court is more familiar with the record * * * and * * * is better situated to make any * * * further findings as may be necessary" (slip op. at 19). It thus seems obvious that, in

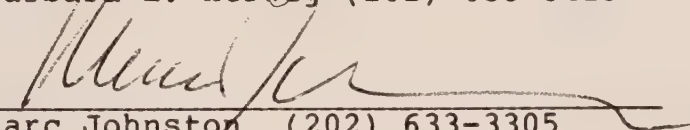


cases involving qualified immunity issues where district court proceedings still were in progress when Harlow was decided, the district court was the most appropriate forum in which to argue the impact of Harlow. An unclear rule governing appeal time that would make some Rule 50(b)/Rule 59 motions less equal than others with respect to tolling would discourage such arguments from being raised, and thus "prolong[] litigation and unnecessarily burden[] [Appellate] Court[s], since plenary consideration of an issue by an appellate court ordinarily requires more time than is required for disposition by a trial court of a petition for rehearing." United States v. Dieter, 429 U.S. 6, 8 (1976).

Conclusion

For the foregoing reasons, plaintiffs' motion to dismiss should be denied.


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IN THE UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA CIRCUIT

JULIUS HOBSON, et al.,)	
)	
Plaintiffs-Appellees,)	
)	
v.	)	Nos. 82-2159 and
	)	82-2160
JERRY WILSON, et al.,)	
)	
Defendants-Appellants.)	

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of November, 1982, I served a copy of the foregoing FBI Defendants' Opposition To Motion To Dismiss Appeals upon counsel for the other parties to this case by causing a copy to be mailed, postage prepaid, to:

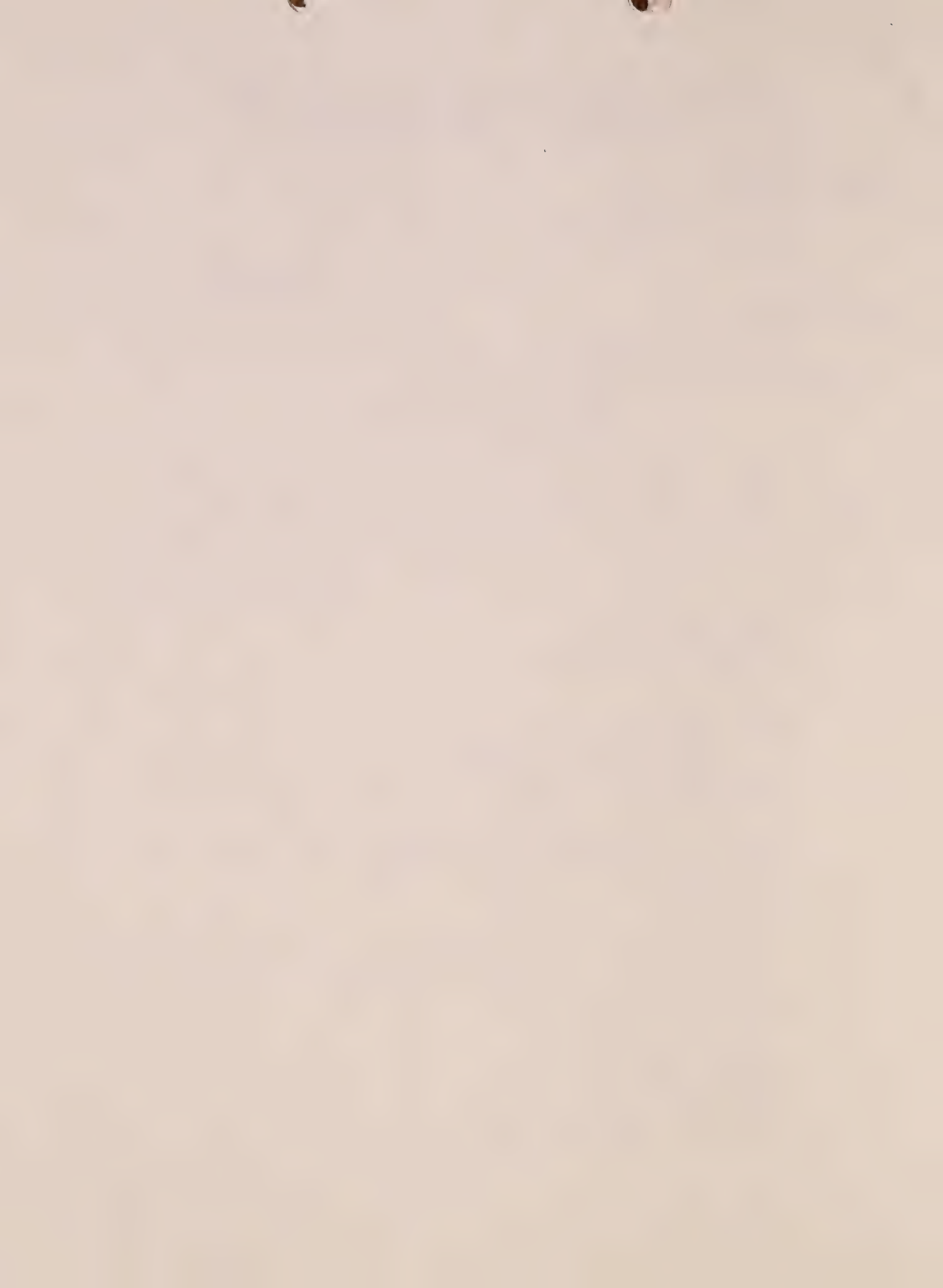
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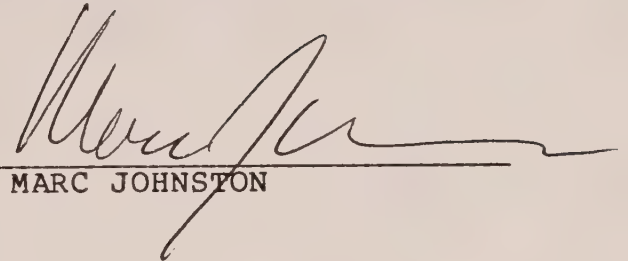
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October 26, 1982

Barbara L. Herwig, Esq.
Marc Johnston, Esq.
Department of Justice
Civil Division, Appellate Staff
10th Street and Constitution Avenue, N.W.
Washington, D.C. 20530

Re: Jerry Wilson, et al., Appellants,
v. Julius Hobson, et al., Appel-
lees, D.C. Cir. Nos. 82-2159 and
82-2160.

Dear Ms. Herwig and Mr. Johnston:

I did not receive until today a copy of your letter of October 19, 1982, to Mr. George A. Fisher. Having received it, I am sending you herewith a copy of Appellees' Motion to Dismiss Appeals as Untimely Filed Under Fed.R.App.P.4(a)(1) and Request for Expeditious Consideration and Memorandum of Points and Authorities in Support of Appellees' Motion to Dismiss Appeals as Untimely Filed, served on October 24, 1982, as is indicated by the Certificate of Service.

Very truly yours,

Mary Boresz Pike

MBP/rg
Enc.

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October 24, 1982

George A. Fisher, Clerk
United States Court of Appeals
United States Courthouse
Room 5423
Constitution Avenue and John Marshall Place, N.W.
Washington, D.C. 20001

Re: Jerry Wilson, et al., Appel-
lants, v. Julius Hobson, et
al., Appellees, No. 82-2159
and No. 82-2160

Dear Mr. Fisher:

Enclosed please find the original and three copies of Appellees' Motion to Dismiss Appeals as Untimely Filed Under Fed.R.App.P.4(a)(1) and Request for Expeditious Consideration and Memorandum of Points and Authorities in support thereof. Kindly accept them for filing in the above-referenced cases.

A request that the motion be considered expeditiously appears at page 2 of the motion, and in compliance with the local rules, I will telephone your office mid-week in order to call the attention of your staff to that request.

Thank you for your assistance.

Very truly yours,

Mary Boresz Pike
Counsel for Appellees

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

-----X

JERRY WILSON, et al., :

Appellants, :

-against- : No. 82-2159 and No. 82-2160

JULIUS HOBSON, et al., :

Appellees. :

-----X

APPELLEES' MOTION TO DISMISS APPEALS
AS UNTIMELY FILED UNDER FED.R.APP.P.4(a)(1)
AND REQUEST FOR EXPEDITIOUS CONSIDERATION

Appellees hereby move this Court for an order dismissing the appeals filed on September 27, 1982, and on October 6, 1982, on the ground that these appeals are untimely under Fed.R.App.P.4(a)(1) insofar as they seek to appeal the judgments entered on the jury verdicts on December 23, 1981, the order of June 1, 1982, denying the defendants' motions for judgment notwithstanding the verdict or, in the alternative, for a new trial, and the order of July 22, 1982, to enter final judgment, and, additionally, as to the District of Columbia defendants, insofar as they seek to appeal from the order of August 28, 1982, denying the second motion of the FBI defendants for judgment notwithstanding the verdict or, in the alternative, for a new trial.

As grounds for their motion, the appellees refer the

Court to the attached Memorandum of Points and Authorities.

In order that all parties may know whether to begin work on their briefs addressing the merits of this complicated appeal, appellees request that their motion to dismiss be heard expeditiously.

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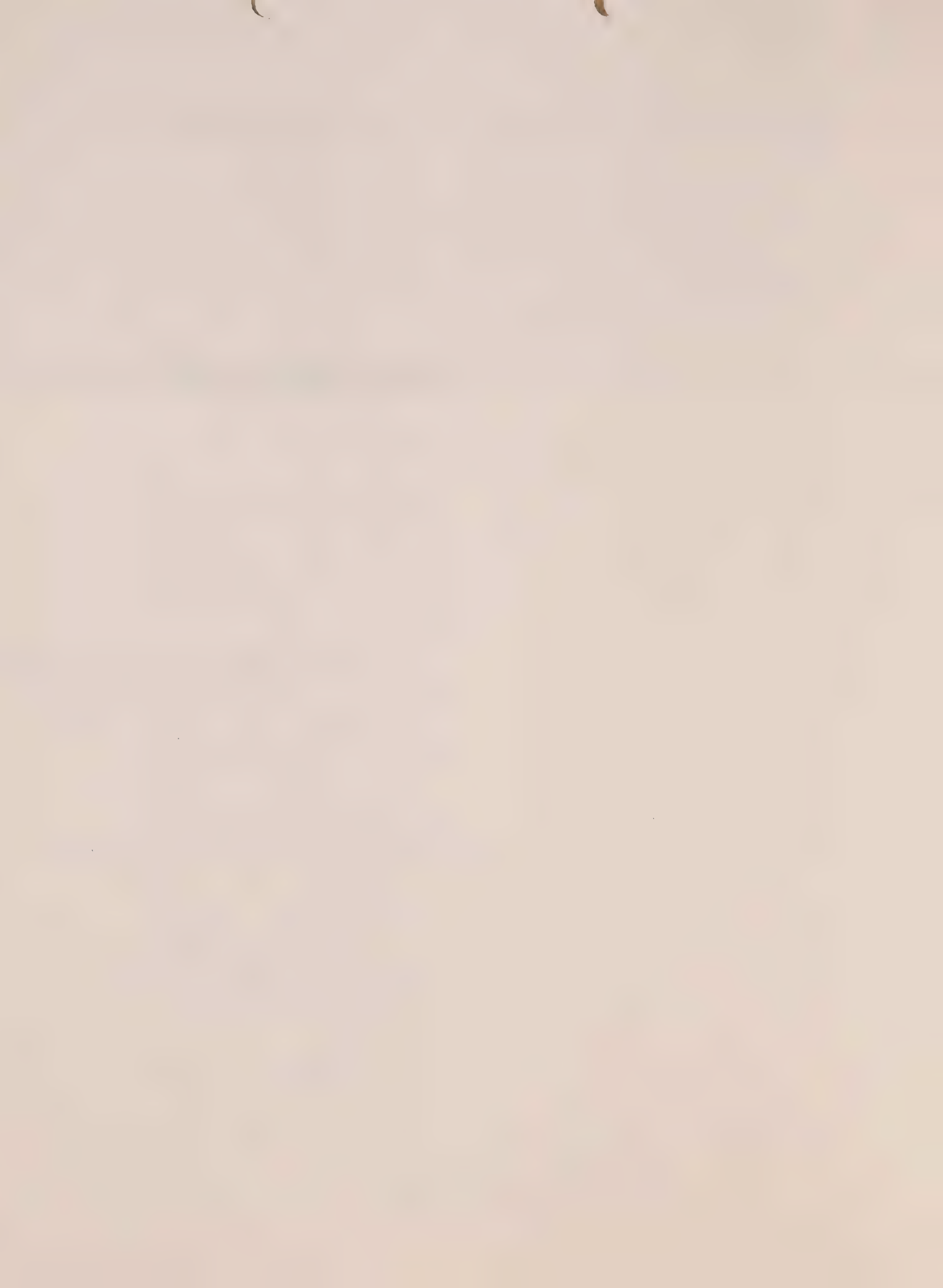
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Counsel for Appellees

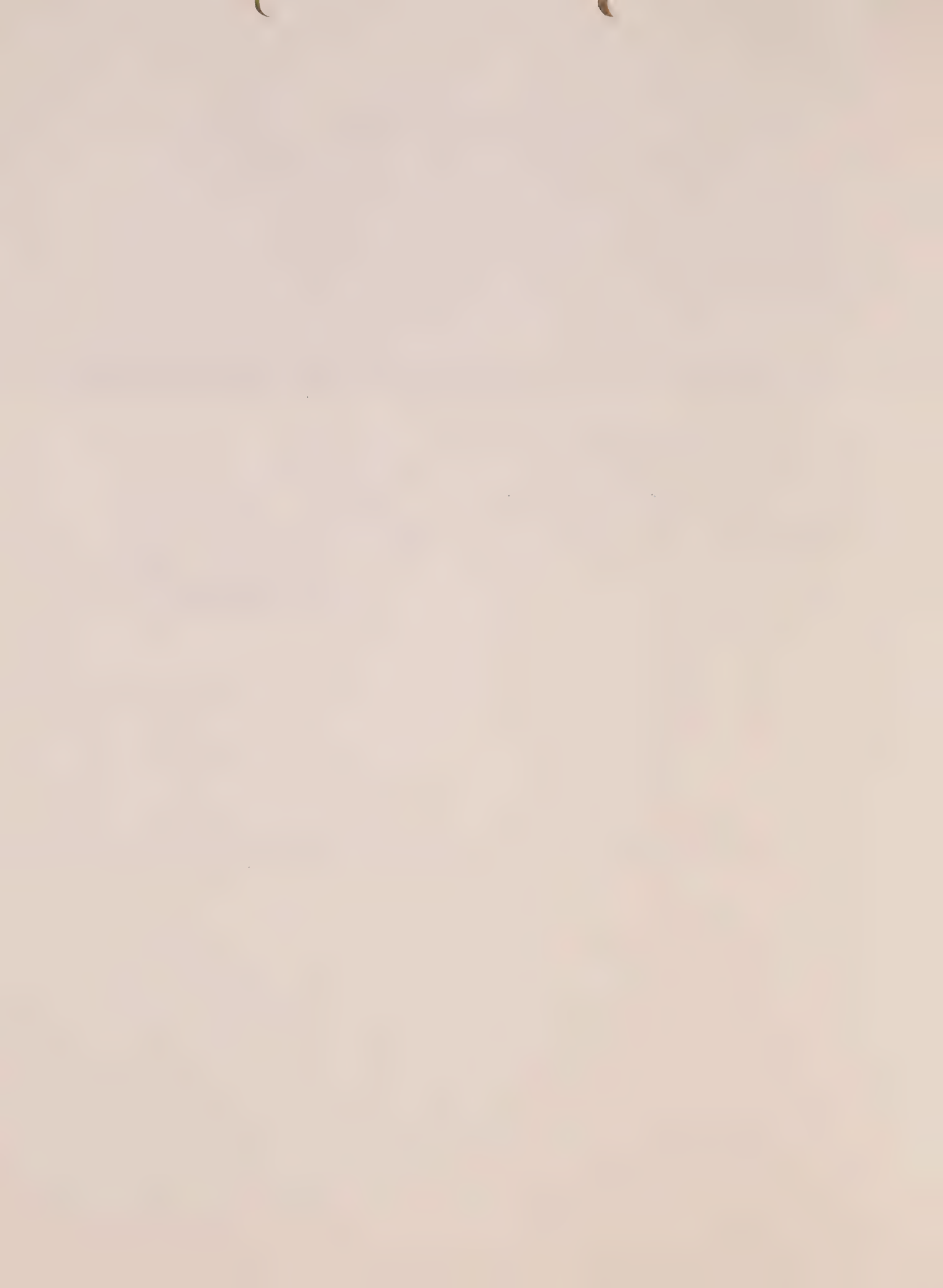
Of Counsel: Arthur Spitzer
 ACLU Fund
 600 Pennsylvania Avenue, S.E.
 Washington, D.C. 20003



CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Appellees' Motion to Dismiss, together with the accompanying Memorandum of Points and Authorities, was mailed this 24th day of October, 1982, to Judith W. Rogers, Charles L. Reischel, and Richard B. Nettler at District Building, 14th and E Streets, N.W., Washington, D.C. 20004 (Attn.: Richard B. Nettler) and to J. Paul McGrath, Stanley S. Harris, Vincent M. Garvey, and David H. White at Department of Justice, Civil Division, 10th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530 (Attn.: David H. White)


MARY BOREST PIKE



UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

-----X

JERRY WILSON, et al., :

Appellants, :

-against- : No. 82-2159 and No. 82-2160

JULIUS HOBSON, et al., :

Appellees. :

-----X

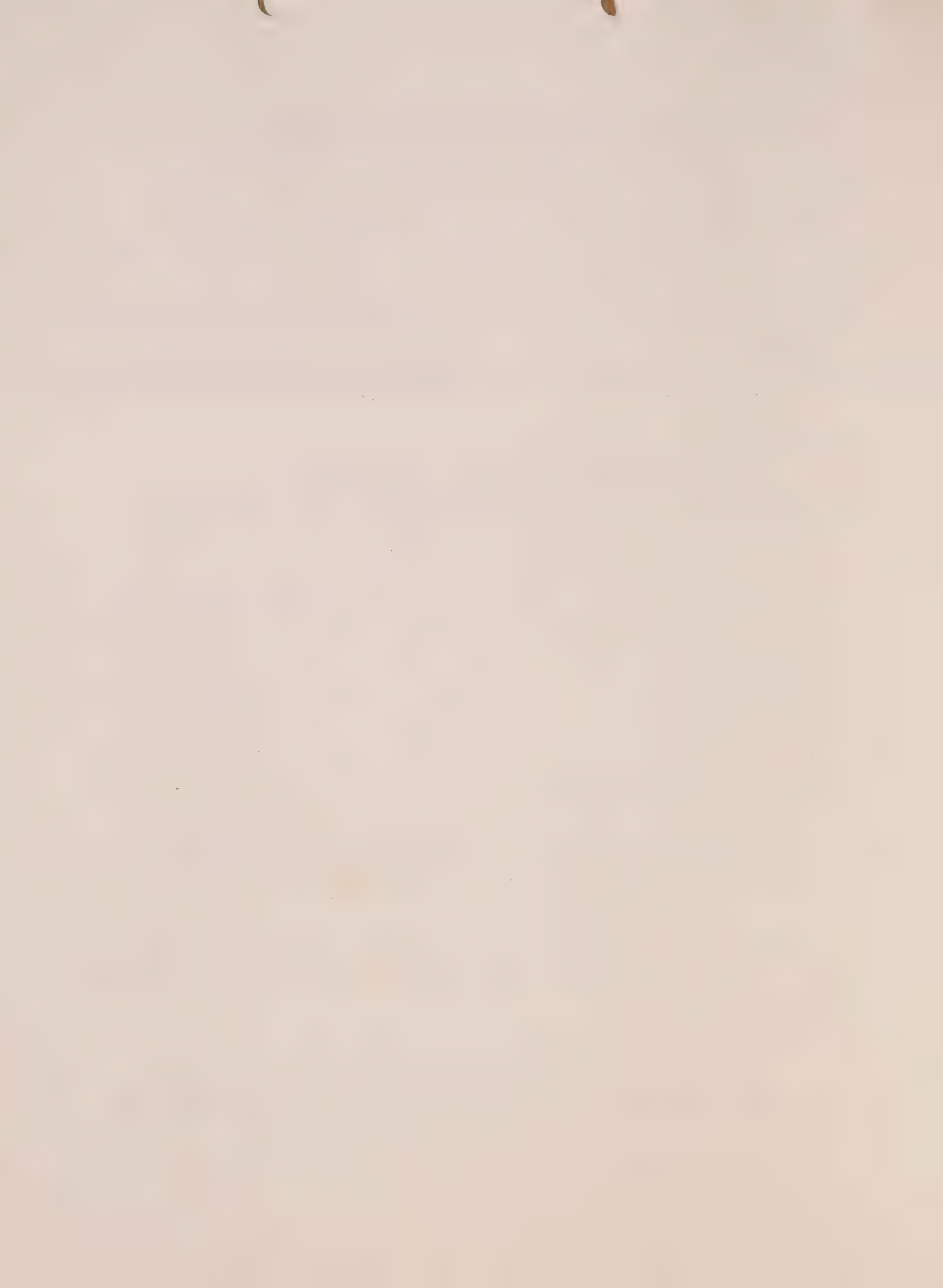
MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF APPELLEES' MOTION TO DISMISS APPEALS
AS UNTIMELY FILED

Statement of the Issue

The issue before this Court for decision on appellees' motion is: does the filing within ten days of the entry of final judgment of a second motion for judgment notwithstanding the verdict or, in the alternative, for a new trial by some but not all of the defendants toll the time for filing notice of appeal where a prior motion for judgment n.o.v./ new trial filed by the same defendants had already been denied and where the precise ground raised in the second motion had been addressed by the district court previously and resolved against the defendants before the second motion had even been filed?

Statement of the Case

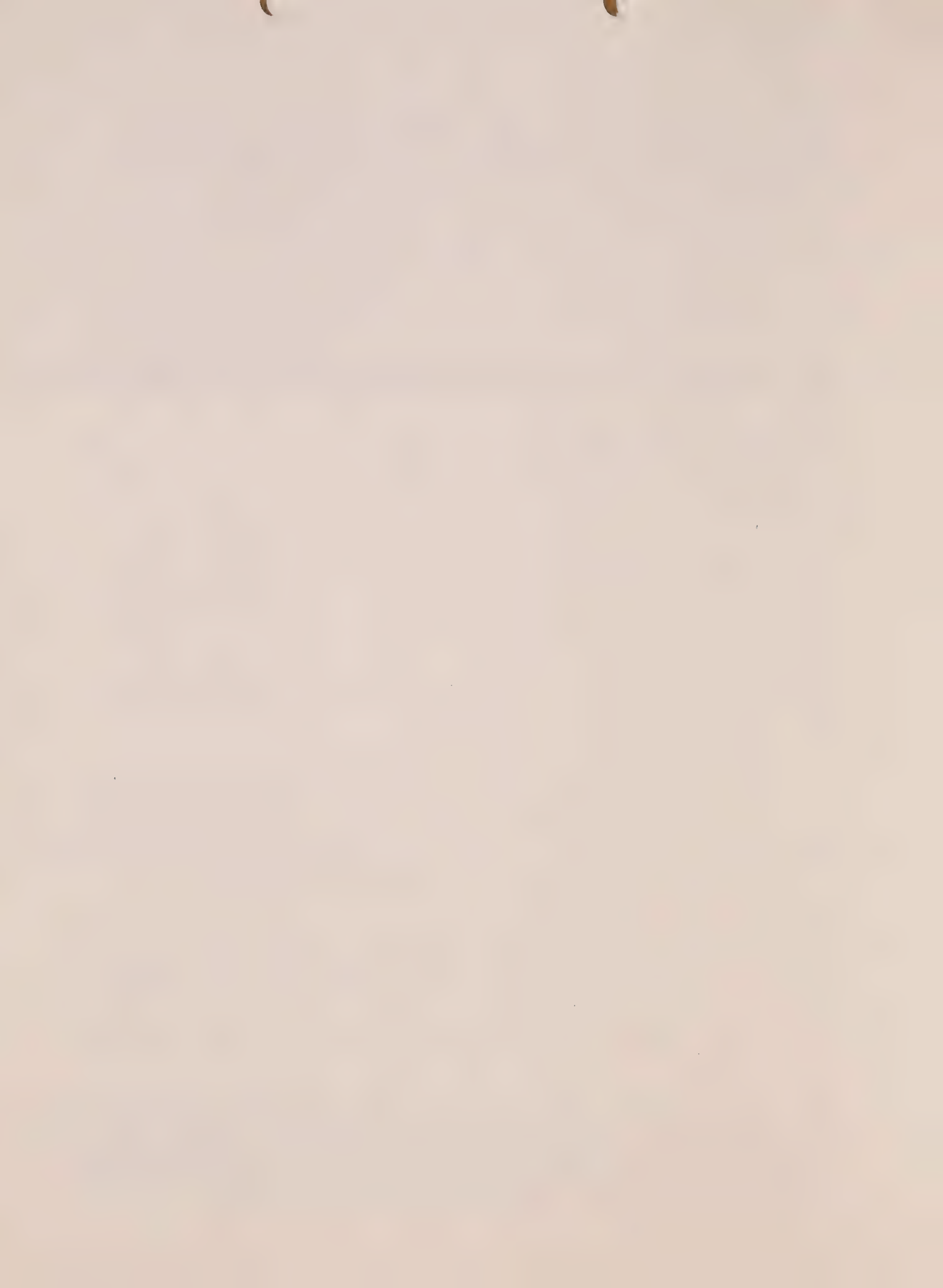
This case was filed in 1976 by eight individuals and



three organizations.^{1/} They sought injunctive relief and damages from certain members of the Federal Bureau of Investigation and of the District of Columbia Metropolitan Police Department, as well as the District of Columbia itself, for violating the plaintiffs' First Amendment rights through two FBI-orchestrated programs: "Counterintelligence Program New Left" and "Counterintelligence Program Black Nationalist-Hate Groups" (abbreviated by the FBI as COINTELPRO New Left and COINTELPRO Black Nationalist). These programs, in which the District of Columbia defendants participated, were initiated for the avowed purpose of "expos[ing], disrupt[ing], misdirect[ing], discredit[ing], or otherwise neutraliz[ing]" the activities of groups and individuals the FBI found undesirable, notably groups opposed to the involvement of the United States in the Vietnam War and persons and groups active in the black civil rights movement.

The plaintiffs were active either in the peace movement or local civil rights activities or both. The individual defendants are government officers who had responsibility for administering and implementing COINTELPRO and District of Columbia employees who engaged and assisted in related activities. The District of Columbia defendants were members of the Intelligence Division of the Police Department during

^{1/} Julius Hobson, the lead plaintiff, died while the case was pending below. His claims were dismissed. One of the organizations, the Emergency Committee on the Transportation Crisis, was dismissed by the district court in November 1979 on the ground that it lacked legal capacity to sue.



all or part of the period sued for with the exception of defendant Wilson, who was Chief of Police.

The case was tried to a jury. The trial began on November 23, 1981, and lasted three weeks. On December 23, 1981, the jury returned verdicts in favor of eight of the nine plaintiffs. A ruling on the plaintiffs' request for injunctive relief awaited further action by the district court.

Chronology of Significant Pleadings and Rulings

The following dates are of critical importance:

December 23, 1981	Judgments entered on the jury verdicts.
January 4, 1982	Both sets of defendants (FBI and District of Columbia) file timely motions under Fed.R.Civ.P.50(b) and 59 for judgment n.o.v./new trial.
April 14, 1982	District court requests parties to submit further memoranda on the pending motions for judgment n.o.v./new trial.
June 1, 1982	District court issues memorandum decision and order denying FBI defendants' motion for judgment n.o.v./new trial and granting in part and denying in part D.C. defendants' motion for judgment n.o.v./new trial.

July 22, 1982

District court issues memorandum decision and order on plaintiffs' request for injunctive relief denying same and final judgment is entered, the issue of attorney fees having been separated out pursuant to Fed.R.Civ.P. 54(b).

August 2, 1982

FBI defendants file a second motion for judgment n.o.v./new trial under Fed.R.Civ.P. 50(b) and 59.

August 28, 1982

District court denies second FBI n.o.v./new trial motion without opinion.

September 27, 1982

All individual defendants (FBI and District of Columbia) against whom judgments were entered on December 23, 1981, file notices of appeal.

October 6, 1982

District of Columbia files notice of appeal.

Argument

The FBI Defendants' Filing and Service of a Second Motion Under Fed.R.Civ.P. 50(b) and Fed.R.Civ.P.59 did not Toll the Time for Filing Notice of Appeal That Began to run on July 22, 1982, With the Entry of Final Judgment, and Hence the Notices Filed on September 27, 1982, and October 6, 1982, are Untimely.

The defendants did not note timely appeals from the

final judgment entered on July 22, 1982, under either the 30-day rule applicable in private civil suits or even under the 60-day rule arguably applicable here since the defendants include federal officer William H. Webster, director of the Federal Bureau of Investigation. The individual defendants did, however, note their appeals within 30 days of the district court's order denying the FBI defendants' second motion for judgment notwithstanding the verdict or, in the alternative, for a new trial.^{2/} Thus, the issue is whether

^{2/} With the exception of the District of Columbia, all defendants against whom judgments were entered noted their appeals on the thirtieth day after August 28, 1982, the date appellants believe to govern. The District of Columbia did not file a notice of appeal until October 6, 1982.

Appellees' position is that the period within which to note an appeal--be it one of thirty days or one of sixty--began to run on July 22, 1982, with the entry of final judgment. No appellant can be found to have noted a timely appeal from the final judgment even if the longer of the two periods is found controlling.

And, even should the Court determine that the FBI defendants are entitled to limited appellate review of the district court's post-final judgment order of August 28, 1982, the appeals noted by the D.C. defendants on September 27, 1982, and October 6, 1982, do not become timely. The D.C. defendants neither joined in the FBI defendants' August 2 motion nor did they file a companion motion nor did they note any appeal--timely or otherwise--from the district court's order of June 1, 1982, denying in part their motion for judgment n.o.v./new trial. Having asked for no relief, the D.C. defendants cannot claim to be aggrieved because the order of August 28, 1982, granted it none. Thus, even assuming arguendo that the D.C. defendants' appeals are timely, they lack standing to appeal from that order. See Deposit Guaranty National Bank v. Roper, 445 U.S. 326, 333, 100 S.Ct. 1166, 63 L.Ed.2d 427 (1980).

this second motion stopped the clock for purposes of computing the time for filing notice of appeal. The appellees submit it did not and therefore the notices of appeal are untimely.^{3/}

Those post-trial motions that toll the time within which an appeal must be filed are spelled out in Fed.R.App.P. 4(a)(4) and include motions under Fed.R.Civ.P.50(b) for judgment notwithstanding the verdict and under Fed.R.Civ.P.59 for new trial. Both sets of defendants filed such motions on January 4, 1982. Having done so, were the FBI defendants entitled not only to have the district court consider a second such motion but also to have the time for noting an appeal tolled while the district court did so?

The answer to that question is well-settled. While they may have been entitled to have the motion considered, provided it was timely filed, the filing of the motion did not toll the time for noting an appeal from the final judgment entered on July 22, 1982.^{4/} Moore's addresses this precise

^{3/} To the extent any appellate review is available appellants here, it is limited to the FBI defendants and to the narrow issue of whether the district court "failed to consider the ... motion properly or rationally." American Security Bank N.A. v. John Y. Harrison Realty, Inc., 670 F.2d 317, 322 (D.C. Cir. 1982).

^{4/} Even though filed months after the jury verdicts they attempt to attack, the FBI defendants' second motion was technically timely because it was filed not later than ten days after the entry of final judgment. Despite its ostensible timeliness, however, an issue exists as to whether the district court had any duty to entertain the "new" reason advanced. The weight of authority is that it did not with some

situation:

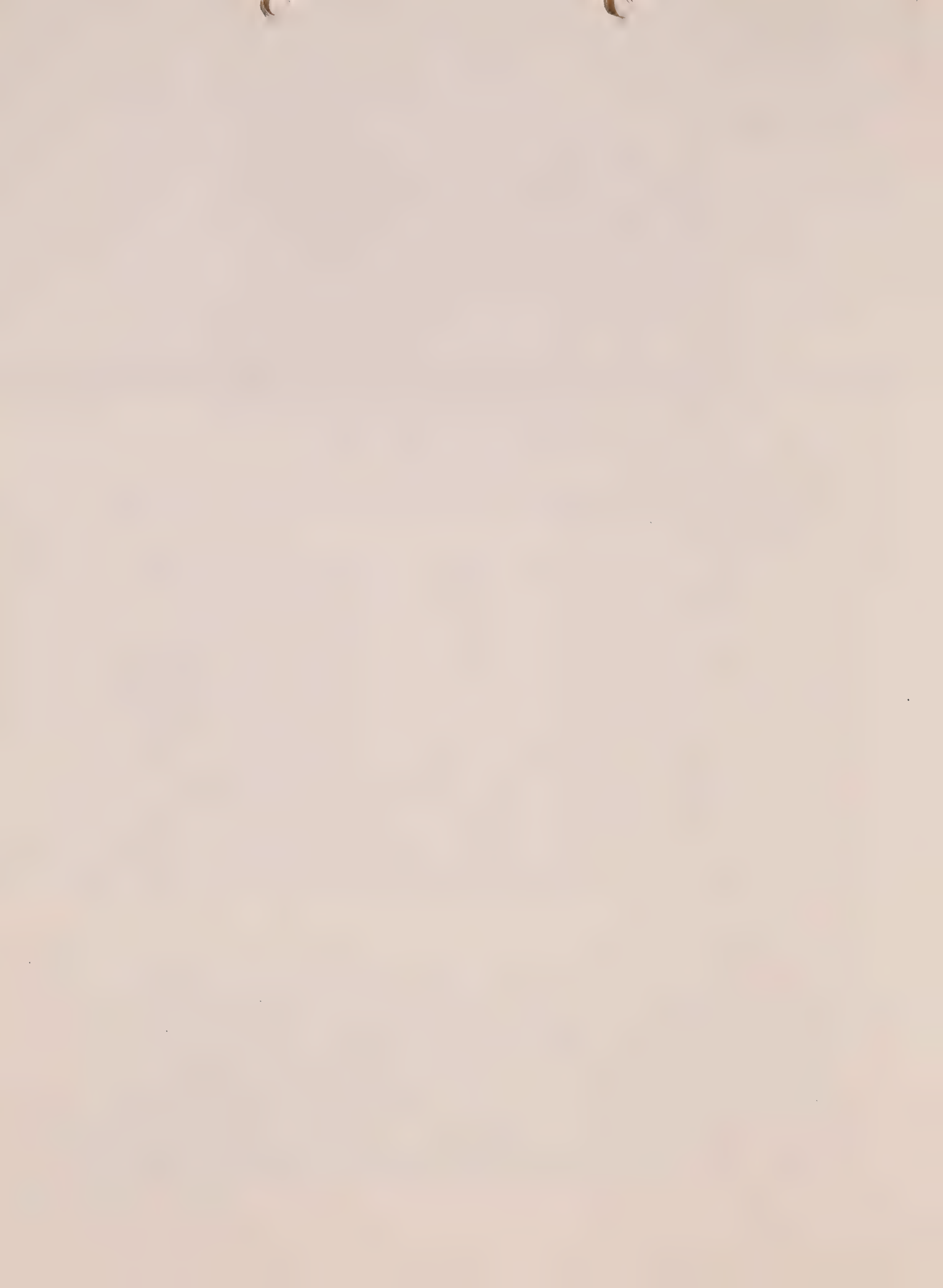
Both the text and purpose of Rule 4(a)(4) indicate that it is an original motion of the types specified that post-pones appeal until after disposition of the motion and the running of the time for appeal is not further extended by a motion to reconsider an order disposing of the motion....Any other interpretation theoretically would permit unlimited extension of the time to appeal and indeed, since Rule 4(a)(4) makes an appeal taken during the pendency of one of the subject motions a nullity, one party could postpone indefinitely the appeal of his adversary. (Emphasis in original.)

9 J. Moore, Moore's Federal Practice ¶204.12[1] at 4-67 and n. 27 (1982 2d ed.).

In their second n.o.v./new trial motion, the FBI defendants argue that their second motion is not a motion to reconsider denial of their first n.o.v./new trial motion but is simply--a "new" motion, albeit a second one for judgment n.o.v./new trial. Unconvincing as this argument is, its appearance comes as no surprise inasmuch as "the case law in this and other circuits is emphatic that a motion to reconsider the denial of a motion for a new trial does not operate

4/ continued

jurisdictions saying that indeed the court is without authority to pass upon grounds not raised in the original motion. See, e.g., Smith v. Pressed Steel Tank Co., 66 F.R.D. 429, 432 (E.D. Pa. 1975), aff'd without opinion, 524 F.2d 1404 (3d Cir. 1975); cf., Conrad v. Graf Brothers, Inc., 412 F.2d 135, 137 (1st Cir. 1969). Other jurisdictions leave the decision as to whether the grounds subsequently raised should be passed upon to the discretion of the district court. See, e.g., Pogue v. International Industries, Inc., 524 F.2d 342, 344 (6th Cir. 1975).



to toll the running of the appeal period." American Security Bank N.A. v. John Y. Harrison Realty, Inc., 670 F.2d 317, 320 (D.C. Cir. 1982), citing Randolph v. Randolph, 198 F.2d 956 (D.C. Cir. 1952), and Wansor v. George Hantscho Co., 570 F.2d 1202, 1206 (5th Cir. 1978). See also Yates v. Behrend, 280 F.2d 64 (D.C. Cir. 1960).

The FBI defendants' characterization of the second motion as a new motion is not only not controlling but it is also incorrect. Two reasons dictate this conclusion.

First, this second motion raised only one issue: the correctness of the district court's instruction to the jury on the qualified immunity defense available to government officials sued for damages. See Memorandum of Points and Authorities in Support of Second Motion by Defendants Brennan, Moore, Jones, Pangburn and Grimaldi for Judgment Notwithstanding the Verdict or, in the Alternative, for New Trial at 1, 5-11, affixed hereto as Exhibit 1. This issue had already been extensively discussed in the n.o.v./new trial motions filed by both sets of defendants on January 4, 1982. The FBI defendants' motion was denied in its entirety and the D.C. defendants' was denied in part and granted in part on June 1, 1982.

On June 24, 1982, the United States Supreme Court rendered its decision in Harlow v. Fitzgerald, 457 U.S. ___, 102 S.Ct. ___, 73 L.Ed.2d 396, which in some part modified the qualified immunity defense. The FBI defendants argued

in their second motion that in light of this new decision--handed down six months after judgments on the verdicts had been entered--the district court should now grant them judgment n.o.v. or a new trial.^{5/}

In fact, the district court had already considered the issue raised by the FBI defendants in the second motion and concluded that the modifications in the immunity defense made by Harlow, supra, 73 L.Ed.2d 396, did not materially affect the jury instructions that had been given in this case. See Memorandum Decision filed July 22, 1982, at 2 n. 2, where the district court specifically addressed this issue, affixed hereto as Exhibit 2. Thus, the FBI defendants were in actuality asking the district court to reconsider its ruling of July 22, 1982, that Harlow did not compel reversal of its June 1, 1982, order denying their first motion for judgment n.o.v./new trial.^{6/}

^{5/} Since judgment n.o.v. is available only to a party that has previously moved for a directed verdict on the same grounds as those raised in the motion, it is unclear how the FBI defendants could be entitled to judgment n.o.v. on the strength of a decision that came down after trial had been concluded and which obviously could not have provided any basis for an objection at trial to the jury instruction on official immunity. In fact, the FBI defendants pressed upon the district court an instruction that stressed the now-discredited "subjective" factor of good versus bad faith.

^{6/} It is far from clear that the district court had any obligation to consider modifications of the law that occurred after entry of judgments on the verdicts. The district court did so nonetheless in an abundance of caution and indeed had raised and passed on the issue of Harlow's applicability before the FBI defendants even filed their motion premised on it.

Second, by this second motion, the FBI defendants were clearly asking the district court to reconsider and change its earlier order of June 1, 1982, denying them relief from the judgment either by way of judgment n.o.v. or new trial. There is no way the district court could have granted the FBI defendants' second motion, the motion of August 2, 1982, without reconsidering and vacating its earlier order of June 1, 1982. Whether or not the FBI defendants styled their second motion as one for reconsideration, reconsideration is what they sought, and got. What they did not get was a tolling of the time for filing notice of appeal.

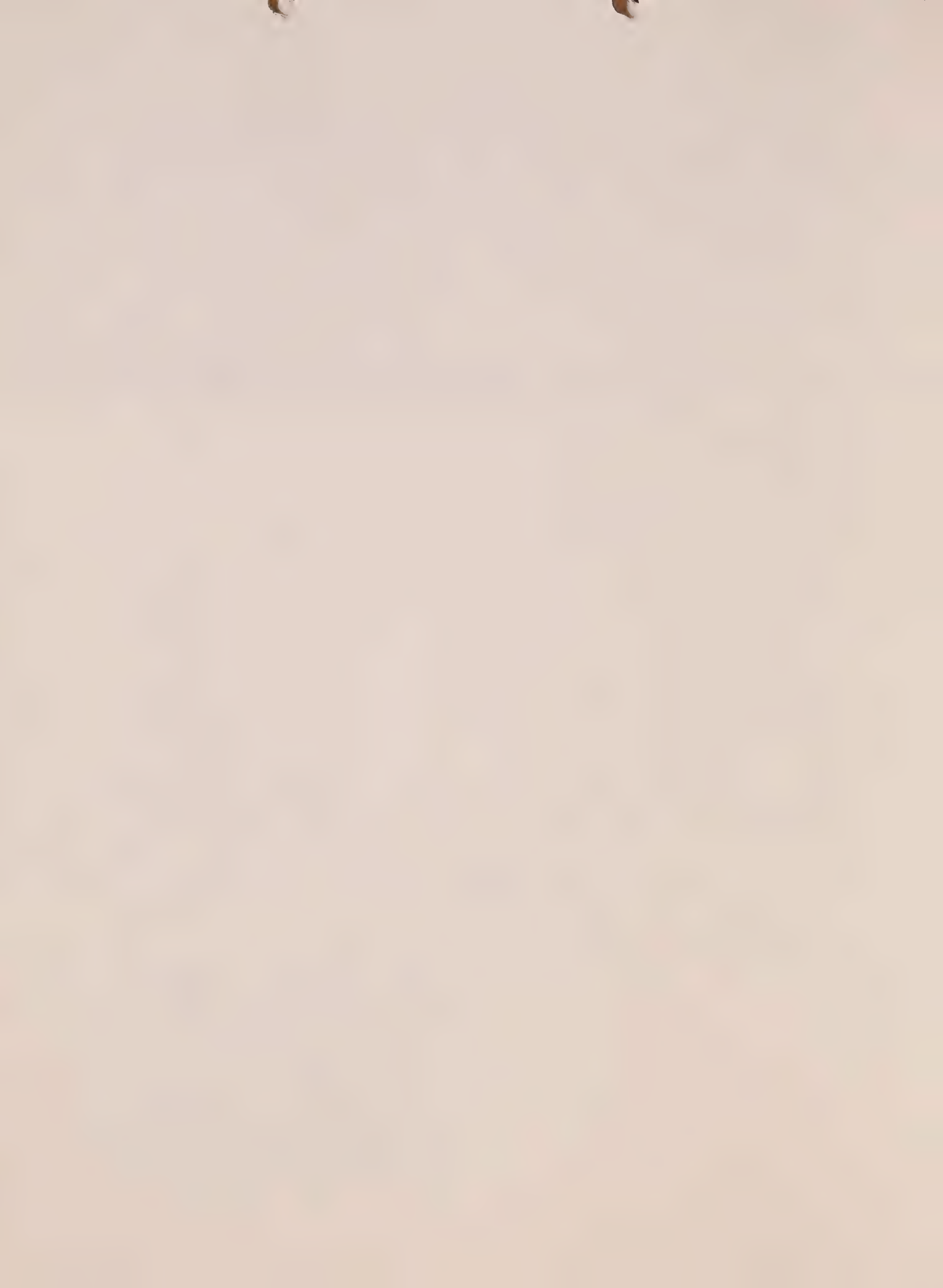
In the interest of achieving finality of judgments, the Federal Rules of Appellate Procedure operate to suspend the time for filing an appeal only for the original Rule 50(b) or Rule 59 motion. Accordingly, appellants' notices had to have been filed within, at the outside, 60 days of July 22, 1982, the date on which final judgment was entered. They were not. Therefore, the appeals should be dismissed.

Conclusion

Based on the foregoing, appellees request that the relief prayed for in their motion be granted.

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GEORGE A. FISHER
CLERK

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT
WASHINGTON, D. C. 20001

October 25, 1982

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RE: No. 82-2159 - Julius Hobson, et al. v. Jerry Wilson,
Thomas J. Herlihy, Jack Acree, Christopher
Scraper, Edward Jagen, John Mahaney &
George Suter

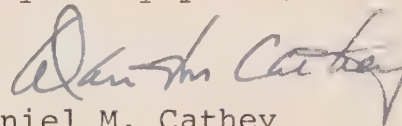
No. 82-2160 - Julius Hobson, et al. v. Jerry Wilson, et al.
Charles D. Brennen, Courtland J. Jones,
Gerald T. Grimaldi, George C. Moore and
Gerould W. Pangburn

Dear Ms. Pilsbury,

We have received your letter of October 12, 1982. Your letter was referred to me because of the information contained in the second paragraph.

The appeals were docketed pursuant to Rule 12(a), Federal Rules of Appellate Procedure "under the title given to the action in the district court...". Presumably, if substitution of parties is necessary under Rule 43(a), F.R.A.P., appropriate papers will be submitted. Otherwise, no further action will be taken concerning your letter.

Very truly yours,



Daniel M. Cathey
First Deputy Clerk

DMC:dct
cc: David H. White, Esquire
Roberta L. Gross, Atty-at-Law



GEORGE A. FISHER
CLERK

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT
WASHINGTON, D. C. 20001

10-14-82

(date)

U.S. District Court Criminal No. _____

| Anne Pilsbury, Esq.
17 Danforth Street
Norway, Maine 04268

| U.S. District Court Civil No. 76-01326

U.S. Court of Appeals No. See Below

| RE: See Below

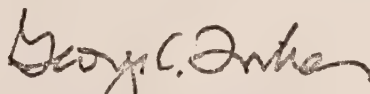
You are hereby notified that copies of the notice of appeal and docket entries in the above case were transmitted from the District Court and the appeal docketed in this Court on the above date, pursuant to the Federal Rule of Appellate Procedure (FRAP) 12(a), as amended August 1, 1979. The appeal has been assigned the indicated docket number.

The record is due to be transmitted to this Court within forty (40) days. However, be alert that the record on appeal may be docketed prior to that date. You will be notified. The time for filing appellant's brief will run from that date.

Your attention is directed to Rule 10, FRAP, as amended August 1, 1979 concerning the timetable for ordering preparation of any transcript.

Forms for the entry of appearance by counsel are enclosed. This should be accomplished at once.

Very truly yours,



GEORGE A. FISHER
Clerk

FORM E 82-2226 - Julius Hobson, et al. (Wash. Area Women Strike for Peace,
Appellant) v. Jerry Wilson, et al. (CA 76-01326)
9-23-81 82-2227 - Julius Hobson, et al (Abe Bloom, et al.) v. Jerry Wilson, et al.
(CA 76-01326)

REVISED

GEORGE A. FISHER
CLERK

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT
WASHINGTON, D. C. 20001

NOTICE

At the last Circuit Judicial Conference, the Chief Judge announced that the Court has implemented a plan designed to reduce the Court's backlog of ready cases and to cut the time lapse between the filing of cases and their disposition. As a part of this program, the Court is adhering to certain internal procedures designed to hasten the announcement of its opinions and other dispositions and is adding an additional panel sitting each week during the regularly scheduled sitting periods. This plan has been highly successful and the Court is cutting sharply into its backlog. The Court is also scheduling its oral arguments further in advance than had been the previous practice, thereby reducing the necessity of seeking continuances and, to a greater degree, assuring that each panel will hear a full slate of cases each sitting day.

In the past, because of its backlog, the Court has liberally granted time extensions for the filing of records, briefs and appendices. Unfortunately, this practice has significantly reduced the number of cases presently ready for placement on the oral argument calendar and, if allowed to continue, will interfere with future oral argument calendars.

The purpose of this Notice is to advise that it has become necessary for the Court to take a firm position with respect to the grant of routine requests for additional time beyond that provided by the Federal Rules and by the Local Rules of this Court. Toward this end, the Court has instructed the Clerk's Office to advise counsel and litigants of this new policy and, effective October 1, 1981, to grant extensions of time only when such action will not preclude a case from being heard during the sitting period when it would normally have been set for oral argument.

United States Court of Appeals
for the District of Columbia Circuit

ENTRY OF APPEARANCE

No. 82-2226

CAPTION

_____ v. _____

PARTY

The Clerk will enter my appearance as counsel for:

☐ Appellant(s)

☐ Petitioner(s)

Name of Party

☐ Appellee(s)

☐ Respondent(s)

Name of Party

☐ Intervenor(s)

Name of Party

☐ Amicus Curiae

Name of Party

ATTORNEY

Name _____ Phone _____

Name _____ Phone _____

Name _____ Phone _____

Firm _____

Address _____

_____ Zip Code _____

NOTE: Must be SUBMITTED by a member of the Bar of the United States Court of Appeals
for the District of Columbia Circuit.

THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY

LABORATORY REPORT

Experiment 1		Experiment 2		Experiment 3	
1.1	1.2	2.1	2.2	3.1	3.2
1.3	1.4	2.3	2.4	3.3	3.4
1.5	1.6	2.5	2.6	3.5	3.6
1.7	1.8	2.7	2.8	3.7	3.8
1.9	1.10	2.9	2.10	3.9	3.10
1.11	1.12	2.11	2.12	3.11	3.12
1.13	1.14	2.13	2.14	3.13	3.14
1.15	1.16	2.15	2.16	3.15	3.16
1.17	1.18	2.17	2.18	3.17	3.18
1.19	1.20	2.19	2.20	3.19	3.20
1.21	1.22	2.21	2.22	3.21	3.22
1.23	1.24	2.23	2.24	3.23	3.24
1.25	1.26	2.25	2.26	3.25	3.26
1.27	1.28	2.27	2.28	3.27	3.28
1.29	1.30	2.29	2.30	3.29	3.30
1.31	1.32	2.31	2.32	3.31	3.32
1.33	1.34	2.33	2.34	3.33	3.34
1.35	1.36	2.35	2.36	3.35	3.36
1.37	1.38	2.37	2.38	3.37	3.38
1.39	1.40	2.39	2.40	3.39	3.40
1.41	1.42	2.41	2.42	3.41	3.42
1.43	1.44	2.43	2.44	3.43	3.44
1.45	1.46	2.45	2.46	3.45	3.46
1.47	1.48	2.47	2.48	3.47	3.48
1.49	1.50	2.49	2.50	3.49	3.50
1.51	1.52	2.51	2.52	3.51	3.52
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1.55	1.56	2.55	2.56	3.55	3.56
1.57	1.58	2.57	2.58	3.57	3.58
1.59	1.60	2.59	2.60	3.59	3.60
1.61	1.62	2.61	2.62	3.61	3.62
1.63	1.64	2.63	2.64	3.63	3.64
1.65	1.66	2.65	2.66	3.65	3.66
1.67	1.68	2.67	2.68	3.67	3.68
1.69	1.70	2.69	2.70	3.69	3.70
1.71	1.72	2.71	2.72	3.71	3.72
1.73	1.74	2.73	2.74	3.73	3.74
1.75	1.76	2.75	2.76	3.75	3.76
1.77	1.78	2.77	2.78	3.77	3.78
1.79	1.80	2.79	2.80	3.79	3.80
1.81	1.82	2.81	2.82	3.81	3.82
1.83	1.84	2.83	2.84	3.83	3.84
1.85	1.86	2.85	2.86	3.85	3.86
1.87	1.88	2.87	2.88	3.87	3.88
1.89	1.90	2.89	2.90	3.89	3.90
1.91	1.92	2.91	2.92	3.91	3.92
1.93	1.94	2.93	2.94	3.93	3.94
1.95	1.96	2.95	2.96	3.95	3.96
1.97	1.98	2.97	2.98	3.97	3.98
1.99	1.100	2.99	2.100	3.99	3.100

United States Court of Appeals
for the District of Columbia Circuit

ENTRY OF APPEARANCE

39-2257
No. _____

CAPTION

v.

PARTY

The Clerk will enter my appearance as counsel for:

☐ Appellant(s)

☐ Petitioner(s) _____

Name of Party

☐ Appellee(s)

☐ Respondent(s) _____

Name of Party

☐ Intervenor(s) _____

Name of Party

☐ Amicus Curiae _____

Name of Party

ATTORNEY

Name _____ Phone _____

Name _____ Phone _____

Name _____ Phone _____

Firm _____

Address _____

Zip Code _____

NOTE: Must be SUBMITTED by a member of the Bar of the United States Court of Appeals
for the District of Columbia Circuit.



REK:MJohnston:bet

TELEPHONE:
(202) 633-3305

Washington, D.C. 20530

October 19, 1982

Mr. George A. Fisher
Clerk, U.S. Court of Appeals
for the D.C. Circuit
3rd & Constitution Ave., N.W.
Room 5423
Washington, D.C. 20001

Re: Julius Hobson, et al. v. Jerry Wilson, et al.
(D.C. Cir. Nos. 82-2159 and 82-2160)

Dear Mr. Fisher:

We have enclosed for filing appearance forms for Ms. Barbara L. Herwig and Mr. Marc Johnston of this office, who have been assigned the prosecution of the above-captioned appeal. Please send copies of all communications pertaining to this appeal directly to Ms. Herwig and Mr. Johnston.

We are sending copies of the appearance forms and this letter to counsel for appellees so that they may serve copies of all briefs and other papers relating to this appeal directly upon Ms. Herwig and Mr. Johnston.

Sincerely,

Robert E. Kopp

Robert E. Kopp
Director, Appellate Staff
Civil Division

Enclosure

cc: Anne Pillsbury
17 Danforth Street
Norway, Maine 04268

Mary B. Pike
Suite 730, 233 Broadway
New York, New York 10279

Morton Stavis
Randolph Scott-McLaughlin
Center for Constitutional Rights
853 Broadway
New York, New York 10003

Roberta L. Gross
Assistant Corporation Counsel
14th Street & E Street, NW
Washington, D.C. 20530

United States Court of Appeals
for the District of Columbia Circuit

ENTRY OF APPEARANCE

No. 82-2159

CAPTION

Julius Hobson, et al.

v.

Jerry Wilson, et al.

PARTY

The Clerk will enter my appearance as counsel for:

☒ Appellant(s) Charles D. Brennan, George C. Moore, Courtland J. Jones,
☐ Petitioner(s) Gerould W. Pangburn, Gerald T. Grimaldi

Name of Party

☐ Appellee(s)

☐ Respondent(s)

Name of Party

☐ Intervenor(s)

Name of Party

☐ Amicus Curiae

Name of Party

ATTORNEY

Name Barbara L. Herwig Phone 202-633-5425
Ms. Barbara L. Herwig

Name Marc Johnston Phone 202-633-3305
Mr. Marc Johnston

Name _____ Phone _____

Firm Department of Justice, Civil Division, Appellate Staff

Address 10th Street & Constitution Avenue, NW

Washington, D.C. Zip Code 20530

NOTE: Must be SUBMITTED by a member of the Bar of the United States Court of Appeals
for the District of Columbia Circuit.

United States Court of Appeals
for the District of Columbia Circuit

ENTRY OF APPEARANCE

No. 22-2100

CAPTION

Julius Hobson, et al.

v.

Jerry Wilson, et al.

PARTY

The Clerk will enter my appearance as counsel for:

Charles D. Brennan, George C. Moore, Courtland J. Jones,

☒ Appellant(s) Gerould W. Pangburn, Gerald T. Grimaldi

☐ Petitioner(s) _____
Name of Party

☐ Appellee(s) _____

☐ Respondent(s) _____
Name of Party

☐ Intervenor(s) _____
Name of Party

☐ Amicus Curiae _____
Name of Party

ATTORNEY

Name Barbara L. Herwig Phone 202-633-5429
Ms. Barbara L. Herwig

Name Mr. Marc Johnston Phone 202-633-3305
Mr. Marc Johnston

Name _____ Phone _____

Firm Department of Justice, Civil Division, Appellate Staff

Address 10th Street & Constitution Avenue, NW

Washington, D.C. Zip Code 20530

NOTE: Must be SUBMITTED by a member of the Bar of the United States Court of Appeals
for the District of Columbia Circuit.

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 82-2159

Julius Hobson, et al.

v.

Jerry Wilson,
Thomas J. Herlihy,
Jack Acree,
Christopher Scrapper,
Edward Jagen,
John Mahaney &
George Suter,

Appellants

John B. Layton, et al.

No. 82-2160

Julius Hobson, et al.

v.

Jerry Wilson, et al.,

Charles D. Brennan,
Courtland J. Jones,
Gerald T. Grimaldi,
George C. Moore &
Gerould W. Pangburn,

Appellants

September Term, 1982

CA 76-01326

United States Court of Appeals
for the District of Columbia Circuit

FILED OCT 22 1982

GEORGE A. FISHER
CLERK

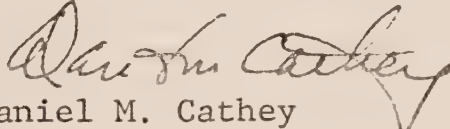
O R D E R

It is ORDERED, sua sponte, that these cases are consolidated.

For the Court:

GEORGE A. FISHER, Clerk

By:


Daniel M. Cathey
First Deputy Clerk

Anne Pilsbury
ATTORNEY AT LAW
17 Danforth Street - Norway, Maine 04268

TELEPHONE
207 / 743-5583

CENTER 10241 1
207 / 925-1141

October 12, 1982

George A. Fisher, Clerk
U.S. Court of Appeals
U.S. Courthouse
3rd & Constitution Ave. N.W.
Washington, D.C. 20001

RE: Hobson v. Wilson
U.S. Ct. Appeals Nos. 82-2159
82-2160

Dear Mr. Fisher:

Enclosed please find Entry of Appearance forms from counsel for appellees in each of the above related cases. I have sent copies to opposing counsel below and would be very grateful if you could send me a copy of the appearance forms from the appellants when you receive them.

For your information and convenience, I might point out that the lead named plaintiff, Julius Hobson, died while this case was pending and his claims were dropped but his name was continued in the caption by agreement of the parties.

Sincerely yours,

Anne Pilsbury

cc. David H. White, Esq.
Dept. of Justice
10th & Penna. NW
Washington, D.C. 20530

Roberta L. Gross, Esq.
Assistant Corporation Counsel
14th & E St. N.W.
Washington, D.C. 20004

b/c: Mary, Mort & Randy

United States Court of Appeals
for the District of Columbia Circuit

ENTRY OF APPEARANCE

No. 22-2160 (F.B.I. defendants)

CAPTION

JULIUS HOBSON, et al.,

v.

JERRY WILSON, et al.

PARTY

The Clerk will enter my appearance as counsel for:

☐ Appellant(s)

☐ Petitioner(s)

Name of Party

☒ Appellee(s) ABE BLOOM, ARTHUR I. WASKOW, TINA HOBSON, REV. DAVID EATON, SAMUEL

☐ Respondent(s) ABBOTT, RICHARD P. POLLOCK, Name of Party REGINALD H. BOOKER, WASHINGTON
PEACE CENTER, WASHINGTON AREA WOMEN STRIKE FOR PEACE.

☐ Intervenor(s)

Name of Party

☐ Amicus Curiae

Name of Party

ATTORNEY

Name ANNE PILSBURY/ 17 Danforth St., Norway, Maine 04268 Phone 207-743-5583

Name MARY B. PIKE/ Suite 730, 233 Broadway, N.Y..N.Y. 10279 Phone 212-221-6100

Name MORTON STAVIS Phone 212-674-3303

Name RANDOLPH SCOTT-MCLAUGHLIN

Firm Center for Constitutional Rights (Stavis & McLaughlin only)

Address 853 Broadway

New York, N.Y.

Zip Code 10003

NOTE: Must be SUBMITTED by a member of the Bar of the United States Court of Appeals
for the District of Columbia Circuit.

United States Court of Appeals
for the District of Columbia Circuit

ENTRY OF APPEARANCE

No. 32-2160 (F.B.I. defendants)

CAPTION

JULIUS HOBSON, et al.,
v.
JERRY WILSON, et al.

PARTY

The Clerk will enter my appearance as counsel for:

- ☐ Appellant(s) _____ Name of Party _____
- ☐ Petitioner(s) _____ Name of Party _____
- ☒ Appellee(s) ABE BLOOM, ARTHUR I. WASKOW, TINA HOBSON, REV. DAVID EATON, SAMMIE
- ☐ Respondent(s) ABBOTT, RICHARD P. POLLOCK, Name of Party REGINALD H. BOOKER, WASHINGTON
PEACE CENTER, WASHINGTON AREA WOMEN STRIKE FOR PEACE.
- ☐ Intervenor(s) _____ Name of Party _____
- ☐ Amicus Curiae _____ Name of Party _____

ATTORNEY

Name ANNE PILSBURY/ 17 Danforth St., Norway, Maine 04268 Phone 207-743-5583

Name MARY B. PIKE/ Suite 730, 233 Broadway, N.Y..N.Y. 10279 Phone 212-227-4530

Name MORTON STAVIS Phone 212-674-3303

Name RANDOLPH SCOTT-MCLAUGHLIN

Firm Center for Constitutional Rights (Stavis & McLaughlin only)

Address 853 Broadway

New York, N.Y. Zip Code 10003

NOTE: Must be SUBMITTED by a member of the Bar of the United States Court of Appeals
for the District of Columbia Circuit.

GEORGE A. FISHER
CLERK

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT
WASHINGTON, D. C. 20001

09-28-82

(date)

Daniel Schember, Esq.
J.E. McNeil, Esq.
1712 N St., N.W.
Washington, D.C. 20037

U.S. District Court Criminal No. _____

U.S. District Court Civil No. 76-01326

U.S. Court of Appeals No. See Below

RE: See Below

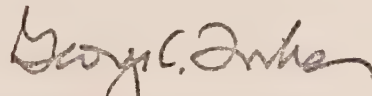
You are hereby notified that copies of the notice of appeal and docket entries in the above case were transmitted from the District Court and the appeal docketed in this Court on the above date, pursuant to the Federal Rule of Appellate Procedure (FRAP) 12(a), as amended August 1, 1979. The appeal has been assigned the indicated docket number.

The record is due to be transmitted to this Court within forty (40) days. However, be alert that the record on appeal may be docketed prior to that date. You will be notified. The time for filing appellant's brief will run from that date.

Your attention is directed to Rule 10, FRAP, as amended August 1, 1979 concerning the timetable for ordering preparation of any transcript.

Forms for the entry of appearance by counsel are enclosed. This should be accomplished at once.

Very truly yours,



GEORGE A. FISHER
Clerk

82-2159 - Julius Hobson, et al. v. Jerry Wilson, et al., Appellants
(John Layton, et al.) (CA 76-01326)

FORM E

9-23-81 82-2160 - Julius Hobson, et al. v. Jerry Wilson, et al. (Charles Brennan,
et al., Appellants) (CA 76-01326)

REVISED

GEORGE A. FISHER
CLERK

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT
WASHINGTON, D. C. 20001

NOTICE

At the last Circuit Judicial Conference, the Chief Judge announced that the Court has implemented a plan designed to reduce the Court's backlog of ready cases and to cut the time lapse between the filing of cases and their disposition. As a part of this program, the Court is adhering to certain internal procedures designed to hasten the announcement of its opinions and other dispositions and is adding an additional panel sitting each week during the regularly scheduled sitting periods. This plan has been highly successful and the Court is cutting sharply into its backlog. The Court is also scheduling its oral arguments further in advance than had been the previous practice, thereby reducing the necessity of seeking continuances and, to a greater degree, assuring that each panel will hear a full slate of cases each sitting day.

In the past, because of its backlog, the Court has liberally granted time extensions for the filing of records, briefs and appendices. Unfortunately, this practice has significantly reduced the number of cases presently ready for placement on the oral argument calendar and, if allowed to continue, will interfere with future oral argument calendars.

The purpose of this Notice is to advise that it has become necessary for the Court to take a firm position with respect to the grant of routine requests for additional time beyond that provided by the Federal Rules and by the Local Rules of this Court. Toward this end, the Court has instructed the Clerk's Office to advise counsel and litigants of this new policy and, effective October 1, 1981, to grant extensions of time only when such action will not preclude a case from being heard during the sitting period when it would normally have been set for oral argument.

Gaffney, Anspach, Schember, Klimaski & Marks, P.C.

ATTORNEYS AT LAW

1712 N STREET, NW
WASHINGTON, DC 20036
(202) 223-9274

William N. Anspach*
Michael J. Gaffney
James R. Klimaski
Katharyn M. Marks**
J. E. McNeil***
Daniel M. Schember**

October 8, 1982

Judy Mead
Administrator

*On extended leave

*Also admitted to practice in Michigan

***Also admitted to practice in Texas

Mr. George A. Fisher
Clerk
United States Court of Appeals
Constitution Ave. & 3rd St., N.W.
Washington, D.C. 20001

Re: Hobson v. Wilson, No. 82-2159
and Hobson v. Wilson, No. 82-2160

Dear Mr. Fisher:

I am in receipt of your notice dated September 28, 1982 that copies of the notice of appeal and docket entries in this case were transmitted from the District Court, as well as the accompanying forms for entry of appearance. Please be advised that neither J. E. McNeil nor I will be representing appellees in the Court of Appeals. I have forwarded the notice and appearance forms to Ms. Anne Pilsbury, 17 Danforth Street, Norway, Maine 04268, who, with others, will be representing the appellees in this case.

Sincerely,



Daniel M. Schember

DMS/le

cc: Ms. Anne Pilsbury

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

JULIUS HOBSON, et al.,)	
)	
Plaintiffs,)	
)	
v.	)	Civil Action
	)	76-1326
JERRY WILSON, et al.,)	
)	
Defendants.)	

NOTICE OF APPEAL

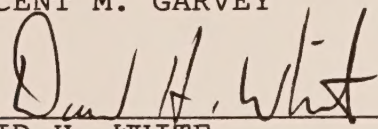
Notice is hereby given that defendants Charles D. Brennan, Courtland J. Jones, Gerald T. Grimaldi, George C. Moore, and Gerould W. Pangburn hereby appeal to the United States Court of Appeals for the District of Columbia Circuit from the judgment entered on December 23, 1981, the order entered on June 1, 1982, denying their motion for judgment notwithstanding the verdict or for new trial, the final judgment entered on July 22, 1982, and the order entered on August 28, 1982, denying their second motion for judgment notwithstanding the verdict or for new trial.

Respectfully submitted,

J. PAUL McGRATH
Assistant Attorney General

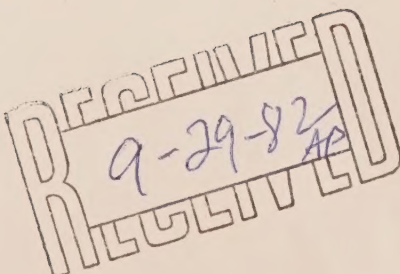
STANLEY S. HARRIS
United States Attorney

VINCENT M. GARVEY


DAVID H. WHITE

Attorneys, Department of Justice
Civil Division
10th & Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Tel: (202) 633-4269

Attorneys for defendants Charles Brennan, Courtland J. Jones, George C. Moore, Gerald T. Grimaldi, and Gerould W. Pangburn.



CERTIFICATE OF SERVICE

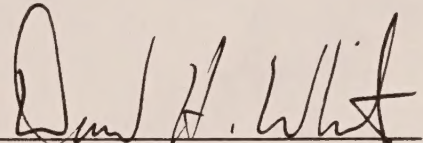
I hereby certify on this 27th day of September, 1982, I have served upon each counsel, by mailing postage prepaid, one copy of the foregoing Notice Of Appeal by defendants Brennan, Moore, Jones Pangburn, and Grimaldi:

Herb Semmel, Esquire
Urban Law Institute for the
Antioch School of Law
1624 Crescent Place, N.W.
Washington, D.C. 20009

Anne Pilsbury, Esquire
17 Danforth Street
Norway, Maine 04268

Roberta Gross, Esquire
Assistant Corporation Counsel
District Building
14th and E Street, N.W.
Washington, D.C. 20004

Daniel Schember, Esquire
Gaffney, Anspach, Schember,
Klimaski & Marks, P.C.
1712 N Streets, N.W.
Washington, D.C. 20036



DAVID H. WHITE
Attorney, Department of Justice
Washington, D.C. 20530

